

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----x
5

HOWARD HENRY,

4 Plaintiff,
5
6

-against- 05 CV 8106

7 WYETH PHARMACEUTICALS, INC., WALTER
8 WARDROP, ANDREW SCHASCHL, and
9 MICHAEL McDERMOTT,

10 Defendants.
11 -----x
12

13 June 12, 2006
14 10:10 a.m.

15 Videotaped deposition of HOWARD A.
16 HENRY, pursuant to notice, at the offices
17 of Orrick, Herrington & Sutcliffe LLP,
18 666 Fifth Avenue, New York, New York,
19 before Gail F. Schorr, a Certified
20 Shorthand Reporter, Certified Realtime
Reporter and Notary Public within and for
the State of New York.

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15 BY: JAMES H. MCQUADE, ESQ.

16

17 -and-

18 HEATHER A. GLATTER, ESQ.

19

20 ALSO PRESENT:

21 KENNETH M. O'BRIEN

22 Assistant Vice President

23

24 RICHARD BLY

25 10:15:34 16 Legalink Action Video, Inc.

10:15:34 17

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HOWARD A. HENRY

10:31:06 2 type of forum where you provided
10:31:07 3 testimony?

10:31:07 4 A. I can't remember at this
10:31:09 5 time. Not -- nothing -- nothing like
10:31:11 6 this, no, that I can recall.

10:31:13 7 Q. Anything that you can recall
10:31:16 8 where any attorney asked you questions
10:31:19 9 where a court reporter was present?

10:31:21 10 A. Maybe when I was a kid. I
10:31:26 11 really, really would have to be
10:31:28 12 stretching that.

10:31:29 13 Q. Have you ever been a party
10:31:31 14 to a lawsuit?

10:31:32 15 A. Not that I can recall.
10:31:34 16 Maybe like those class action lawsuits
10:31:36 17 that they send you in the mail, but
10:31:38 18 nothing formal like this that I can
10:31:40 19 recall.

10:31:40 20 Q. Have you ever commenced a
10:31:43 21 lawsuit yourself?

10:31:45 22 A. Not that I can --

10:31:46 23 Q. Other than the class actions
10:31:47 24 that you mentioned?

10:31:48 25 A. Not that I can recall.

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HOWARD A. HENRY

10:31:49 2 Q. Mr. Henry, are you married?

10:31:56 3 A. Yes, sir.

10:31:57 4 Q. Do you have any children?

10:31:58 5 A. No, sir.

10:31:58 6 Q. Have you been married
10:32:00 7 before?

10:32:00 8 A. No, sir.

10:32:00 9 Q. Can you tell me about your
10:32:01 10 educational background?

10:32:04 11 A. How far back?

10:32:06 12 Q. Start from high school,
10:32:07 13 please.

10:32:08 14 A. Graduated from Cardinal
10:32:11 15 Spellman High School. After that I
10:32:12 16 went to St. John's University and got a
10:32:15 17 degree in physical science. After that
10:32:18 18 I spent some time at the University of
10:32:20 19 Maryland, came home, worked and got a
10:32:24 20 degree from City College of New York in
10:32:27 21 approximately -- in the fall of 1997.

10:32:29 22 Q. And what degree was that
10:32:31 23 from City College?

10:32:31 24 A. Chemical engineering.

10:32:37 25 Q. That's a Master's degree?

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HOWARD A. HENRY

10:32:39 2 A. Bachelor's degree. I have
10:32:41 3 two Bachelor's degrees.

10:32:44 4 Q. When did you get your
10:32:45 5 Bachelor's degree from St. John's?

10:32:47 6 A. 1990.

7 (Henry Exhibit 1 for
8 identification, Bates stamped 4026
9 through 4028.)

10 (Henry Exhibit 2 for
11 identification, Bates stamped 3320
10:33:27 12 through 3322.)

10:33:27 13 Q. I hand to you two documents.
10:33:29 14 The first document I handed you,
10:33:30 15 Exhibit number 1, if you look in the
10:33:32 16 lower right-hand corner there's a Bates
10:33:34 17 number, 4026. The second document I
10:33:36 18 handed you, Exhibit number 2, if you
10:33:38 19 look in the right-hand corner of that
10:33:40 20 document there's a Bates number 3320.

10:33:51 21 Mr. Henry, referring to
10:33:53 22 Exhibit number 1, this is a copy of
10:33:54 23 your resume?

10:33:55 24 A. Yes, sir.

10:33:56 25 Q. Exhibit number 2 is also a

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HOWARD A. HENRY

10:59:04 2 Q. Mr. Henry, I placed in front
10:59:06 3 of you a document that's been marked
10:59:08 4 Exhibit number 4. It's a copy of the
10:59:11 5 complaint that was filed in this
10:59:14 6 action. Is this the document that you
10:59:19 7 said you had reviewed before today's
10:59:21 8 deposition?

10:59:22 9 A. Without reading the entire
10:59:39 10 document, it looks to be -- it looks to
10:59:44 11 be the document. Without reading the
10:59:46 12 entire thing, just skimming it.

10:59:49 13 Q. In your complaint you allege
10:59:51 14 that you were denied a number of
10:59:53 15 promotions during your employment at
10:59:56 16 Wyeth because of your race; is that
10:59:59 17 correct?

10:59:59 18 A. Yes, sir.

11:00:01 19 Q. Can you tell me the first
11:00:07 20 instance in which you believe you were
11:00:09 21 denied a promotion because of your
11:00:11 22 race?

11:00:12 23 A. I applied for a position of
11:00:18 24 project engineer on or about --
11:00:23 25 sometime in -- I can't remember the

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HOWARD A. HENRY

11:00:28 2 exact time frame, but it was around
11:00:31 3 2001/2002, yes, December 2001, about
11:00:37 4 that time.

11:00:39 5 Q. And how did you apply for
11:00:41 6 that position?

11:00:41 7 A. Using the bid process at
11:00:46 8 Wyeth.

11:00:49 9 Q. Why were you interested in
11:00:50 10 this position?

11:00:51 11 A. Because during a special
11:00:55 12 circumstance that had arisen at that
11:00:59 13 time certain individuals were given
11:01:00 14 opportunities to do other things and at
11:01:05 15 that time I was performing the duties
11:01:06 16 of a project engineer for a project
11:01:09 17 that was taking place during that time.
11:01:12 18 So I was functioning as a project
11:01:15 19 engineer. So that's where the interest
11:01:18 20 came from.

11:01:19 21 Q. Who were you working on this
11:01:21 22 special project with that you referred
11:01:23 23 to?

11:01:23 24 A. Peter McGarrigle, Kevin
11:01:27 25 Costello, and certain outside vendors.

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HOWARD A. HENRY

11:01:38 2 Q. And can you describe the
11:01:39 3 project for me?

11:01:40 4 A. Basically it was called the
11:01:42 5 continuous coater project where we were
11:01:44 6 supposed to perform duties and
11:01:45 7 functions to facilitate the proper
11:01:52 8 installation, performance, of a new
11:01:54 9 technology that was called the
11:01:57 10 continuous tablet coater. So all the
11:02:00 11 equipment associated with that, all the
11:02:07 12 objects associated with that we were
11:02:09 13 responsible for.

11:02:10 14 Q. Do you know how this
11:02:11 15 position became open? Is there someone
11:02:16 16 that left Wyeth that opened up this
11:02:20 17 position as a project engineer?

11:02:21 18 A. From what I remember it was
11:02:22 19 a restructuring that occurred and
11:02:25 20 during this restructuring certain
11:02:30 21 engineers were given the title as
11:02:33 22 project engineers, certain engineers
11:02:37 23 will remain production engineers, so
11:02:39 24 forth and so on.

11:02:41 25 So there was some sort of

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HOWARD A. HENRY

11:02:43 2 restructuring at that time that made
11:02:46 3 the position available.

11:02:46 4 Q. So you submitted a bid for
11:02:48 5 this open position, correct?

11:02:49 6 A. From what I remember, yes,
11:02:51 7 yes.

11:02:51 8 Q. And what happened next?

11:02:53 9 A. Well, I didn't receive the
11:02:57 10 opportunity and I didn't -- at that
11:03:02 11 time I just took it as, well I'll
11:03:05 12 continue to move on and continue
11:03:07 13 searching.

11:03:08 14 Q. Were you interviewed for the
11:03:10 15 position?

11:03:10 16 A. Not formally, no.

11:03:12 17 Q. Informally were you
11:03:13 18 interviewed?

11:03:14 19 A. I don't think I was
11:03:16 20 interviewed at all.

11:03:17 21 Q. Did you talk to anyone about
11:03:18 22 this position?

11:03:21 23 A. I may have made mention to
11:03:22 24 some of the engineers who were there at
11:03:25 25 the time.

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HOWARD A. HENRY

11:03:25 2 Q. Do you know who the

11:03:27 3 decisionmakers were on this open

11:03:28 4 position?

11:03:28 5 A. I think the main

11:03:30 6 decisionmaker was Kevin Costello

11:03:33 7 himself.

11:03:34 8 Q. Kevin Costello and who?

11:03:35 9 A. I think he was -- from what

11:03:38 10 I remember I think he was the major

11:03:40 11 decisionmaker, Kevin Costello.

11:03:42 12 Q. Anyone else involved? You

11:03:44 13 said he was the major decisionmaker.

11:03:46 14 Was there anyone else involved?

11:03:47 15 A. Well, when I use the word

11:03:51 16 major, it's hard to tell who's major

11:03:53 17 and who's minor at times. You just

11:03:56 18 base your -- base your, for lack of a

11:04:00 19 better word, your ability to understand

11:04:02 20 and gather the information based on

11:04:04 21 what you see going on in front of you.

11:04:06 22 So he seemed to be the main one making

11:04:10 23 the decision because the person was

11:04:12 24 reporting to him.

11:04:12 25 Q. But you don't know who made

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HOWARD A. HENRY

11:04:14 2 the decision?

11:04:15 3 A. Not a hundred percent.

11:04:17 4 Q. And you don't know who

11:04:24 5 was --

11:04:25 6 A. Well --

11:04:26 7 Q. -- was involved in this

11:04:27 8 decision?

11:04:27 9 A. Well I mean Kevin and I had

11:04:29 10 a conversation and based on that

11:04:31 11 conversation he told me that he made

11:04:34 12 this decision himself. Now whether his

11:04:40 13 decision was influenced by anybody

11:04:42 14 else, I don't know. But he said he

11:04:43 15 made the decision himself.

11:04:44 16 Q. When did he tell you that?

11:04:45 17 A. I can't remember exactly

11:04:47 18 when, but it was during -- it was

11:04:49 19 before the announcement was made as to

11:04:51 20 who got the position.

11:04:53 21 Q. But after Kevin had made the

11:04:54 22 decision?

11:04:56 23 A. Right. He had said that,

11:04:57 24 you know, there's a girl that he's

11:04:59 25 interested in and, you know, that was

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HOWARD A. HENRY

11:05:04 2 his decision.

11:05:04 3 Q. Did he tell you the name of
11:05:07 4 this girl?11:05:12 5 A. I don't know if he told me
11:05:13 6 the name at that time.11:05:14 7 Q. Do you know who was
11:05:14 8 ultimately hired for this position?

11:05:17 9 A. Yes.

11:05:17 10 Q. Who was that?

11:05:18 11 A. Cara Muscolo.

11:05:22 12 Q. Do you know what Cara's
11:05:24 13 qualifications are?11:05:26 14 A. I know she worked at Wyeth
11:05:29 15 for a short stint. I know that she has
11:05:32 16 a -- at the time she had a BE in
11:05:36 17 chemical engineering.11:05:37 18 Q. Do you know what her work
11:05:39 19 background is?11:05:39 20 A. I know that she worked at
11:05:41 21 Wyeth as -- in the packaging area for a
11:05:44 22 short stint as either a supervisor of
11:05:50 23 some sort, but I don't know a hundred
11:05:53 24 percent.

11:05:53 25 Q. Did you ever work with Cara?

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HOWARD A. HENRY

11:05:55 2

A. Yes, I have.

11:06:01 3

Q. When did you work with her?

11:06:03 4

A. At various times during

11:06:05 5

various projects throughout my stint at

11:06:08 6

Wyeth when I was an engineer. The

11:06:10 7

engineers, we kind of cross-pollinate,

11:06:13 8

if you will.

11:06:13 9

Q. Did you work with her before

11:06:14 10

she was hired for this particular

11:06:16 11

position?

11:06:16 12

A. No.

11:06:18 13

Q. But you worked with her

11:06:20 14

after?

11:06:20 15

A. Yes.

11:06:21 16

Q. And what are your

11:06:22 17

impressions of Cara?

11:06:27 18

A. I'm not here to judge her.

11:06:28 19

We worked together and, you know, I

11:06:34 20

guess there are all areas where we can

11:06:36 21

learn from each other and grow from

11:06:38 22

each other. So, basically for the

11:06:46 23

most, part we were amicable toward each

11:06:48 24

other.

11:06:49 25

Q. Do you have any reason to

1 HOWARD A. HENRY

11:06:50 2 believe she was not qualified for the
11:06:52 3 position she was hired at the time she
11:06:53 4 was hired?

11:06:54 5 A. I cannot say she was not
11:06:56 6 qualified.

11:07:05 7 Q. And after the decision was
11:07:06 8 made and having had the opportunity to
11:07:08 9 work with her, do you believe that she
11:07:13 10 was in fact qualified for the position?

11:07:15 11 A. I believe that she -- she
11:07:21 12 performed her functions, she did her
11:07:23 13 duties. She performed the function in
11:07:30 14 the position, but I can't -- I wouldn't
11:07:32 15 judge her in that light. It's not for
11:07:35 16 me to judge her like that.

11:07:36 17 Q. But I'm asking you to judge
11:07:47 18 her and I'm asking you to tell me based
11:07:50 19 on your experience with her in this
11:07:51 20 position whether she was in fact
11:07:53 21 qualified for this position?

11:07:57 22 A. I can't say she was not
11:07:59 23 qualified. I can't say that she didn't
11:08:01 24 perform the duties in the position.
11:08:04 25 From what -- from my interaction with

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HOWARD A. HENRY

11:08:06 2 her we interacted well, and that's the
11:08:11 3 best I can assess.

11:08:14 4 Q. Do you know what criteria
11:08:16 5 was used in selecting Cara Muscolo for
11:08:21 6 this position?

11:08:26 7 A. All of the criteria, no.

11:08:28 8 Q. Do you know any of the
11:08:29 9 criteria?

11:08:29 10 A. I mean what was mentioned to
11:08:31 11 me was that there was a -- there was an
11:08:34 12 area that she -- she -- she had some
11:08:40 13 exposure to and based on that the
11:08:42 14 decision was made.

11:08:48 15 Q. But you weren't involved in
11:08:50 16 the decisionmaking process?

11:08:51 17 A. No.

11:08:52 18 Q. And who told you about this?
11:08:56 19 You mentioned someone told you about
11:08:57 20 this one criteria. Who was that
11:09:01 21 person?

11:09:01 22 A. Mr. Costello himself.

11:09:03 23 Q. When you spoke to Mr.
11:09:18 24 Costello about this decision, did you
11:09:21 25 express any disappointment that you

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HOWARD A. HENRY

11:09:24 2 weren't selected for the position?

11:09:26 3 A. I mean I didn't -- I don't

11:09:29 4 know if I'm -- if I kind of looked

11:09:31 5 disappointed. I may have looked

11:09:33 6 disappointed, but at that time he and

11:09:37 7 I, I took it as, you know, that was his

11:09:40 8 decision, I respected it, and I moved

11:09:42 9 on at that time.

11:09:43 10 Q. Do you have any basis for

11:09:52 11 believing that you were not chosen for

11:09:54 12 this particular position because of

11:09:56 13 your race?

11:09:59 14 A. I believe a pattern was

11:10:02 15 established as time went on. I mean I,

11:10:05 16 wasn't really looking for that at that

11:10:08 17 time. You know, we were all working

11:10:11 18 together to achieve goals, to do what's

11:10:15 19 right for the company. So I wasn't

11:10:17 20 really looking for anything at that

11:10:18 21 time. But as time went on a pattern

11:10:21 22 established itself.

11:10:25 23 Q. I don't think you answered

11:10:26 24 my question. I'll ask it again. Do

11:10:30 25 you have any basis for believing that

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HOWARD A. HENRY

11:10:31 2 you were not chosen for that particular
11:10:34 3 position because of your race?

11:10:37 4 A. At that time? Or now?

11:10:43 5 Q. At that time.

11:10:43 6 A. At that time I didn't see
11:10:44 7 what I saw now.

11:10:46 8 Q. So the answer is at that
11:10:49 9 time, no?

11:10:50 10 A. At that time, no.

11:10:50 11 Q. Okay. Now how about now?

11:10:53 12 A. Now --

11:10:54 13 Q. Do you have a basis for
11:10:55 14 believing?

11:10:55 15 A. Now, as a pattern
11:10:57 16 established itself I believe there is a
11:10:58 17 basis for it.

11:10:59 18 Q. And what is that basis for
11:11:01 19 believing that you were not chosen for
11:11:02 20 this particular position because of
11:11:05 21 your race?

11:11:06 22 A. Basically as I began to
11:11:08 23 apply for more positions, and I -- not
11:11:12 24 in every case, but in most of those
11:11:14 25 cases, there seemed to be a pattern at

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HOWARD A. HENRY

11:11:17 2 which we weren't even considered, when
11:11:22 3 I say we, myself, and some of the
11:11:25 4 African American men that I spoke with,
11:11:27 5 were not considered for a managerial
11:11:31 6 track position at Wyeth.

11:11:37 7 Q. Any other basis?

11:11:40 8 A. There may be some other
11:11:41 9 basis, but I mean the baseline that's
11:11:47 10 established, the foundational truth
11:11:50 11 that's been established took time to
11:11:52 12 develop themselves. It wasn't
11:11:57 13 something that -- it wasn't an
11:11:58 14 instantaneous thing that spurred in my
11:12:01 15 emotion or spurred in my heart, but
11:12:03 16 it's something that presented itself
11:12:05 17 over time.

11:12:06 18 Q. I'd like you to focus again
11:12:08 19 on this particular hiring decision.
11:12:10 20 And is there anything at all about this
11:12:12 21 particular decision, asking you just
11:12:15 22 about this decision in isolation, do
11:12:20 23 you have any basis for believing that
11:12:22 24 you were not chosen because of your
11:12:24 25 race? And I understand what you've

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HOWARD A. HENRY

11:28:00 2 A. Yes.

11:28:02 3 Q. Did you have any discussions
11:28:06 4 with Mr. Schaschl about this position
11:28:10 5 and the fact that you did not get the
11:28:12 6 position?

11:28:13 7 A. Yes.

11:28:15 8 Q. When did that discussion
11:28:17 9 occur?

11:28:18 10 A. There may have been a
11:28:23 11 previous discussion, but the one I
11:28:24 12 recall the most was in January of 2004.

11:28:36 13 Q. About a year and a half
11:28:37 14 after --

11:28:40 15 A. There may have been --

11:28:41 16 Q. -- the decision was made?

11:28:42 17 A. There may have been another
11:28:43 18 discussion that occurred afterwards,
11:28:47 19 but --

11:28:48 20 Q. But you don't recall --

11:28:50 21 A. No.

11:28:50 22 Q. -- anything that was said
11:28:51 23 during that discussion? So the only
11:28:53 24 discussion you remember with Mr.
11:28:55 25 Schaschl is a discussion you had with

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HOWARD A. HENRY

11:28:56 2 him in approximately January 2004,
11:28:59 3 correct?

11:28:59 4 A. At that time -- at this
11:29:01 5 time, yes.

11:29:02 6 Q. And can you tell me about
11:29:03 7 that discussion you had with Mr.
11:29:05 8 Schaschl in 2004?

11:29:07 9 A. I asked him how was the
11:29:13 10 decision made as far -- regarding the
11:29:16 11 production engineer product -- excuse
11:29:18 12 me, product coordinator position at the
11:29:22 13 time when it was available. He said
11:29:24 14 that well, Chris had done it for a
11:29:26 15 little while, he had done it for a
11:29:31 16 little while. So I said well, given
11:29:36 17 the opportunity, I would have liked to
11:29:40 18 have done it for a little while.
11:29:43 19 Because usually you're given the
11:29:45 20 opportunity to do something for a
11:29:46 21 little while just to expose yourself to
11:29:48 22 it, and it, you know, if you show
11:29:52 23 interest in a particular position they
11:29:55 24 may extract some of the duties of that
11:29:56 25 position for you to do it so that you

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HOWARD A. HENRY

11:30:00 2 can -- should the position be made

11:30:04 3 available perhaps slide into the

11:30:07 4 position or be the chief candidate for

11:30:13 5 the position once it becomes available.

11:30:16 6 Q. What did Mr. Schaschl say?

11:30:23 7 A. Basically he said that he,

11:30:24 8 meaning Mr. DeFeciani was chosen because

11:30:27 9 he did it for a little while, and I said,

11:30:30 10 well, when it was made available on a

11:30:32 11 temporary basis I would like to have had

11:30:34 12 an opportunity to do it for a little

11:30:38 13 while. And he said, well, it was given

11:30:41 14 to Rich because he did it for a little

11:30:43 15 while. And I said, well, when Chris went

11:30:46 16 out hurt on medical leave why wasn't I

11:30:52 17 afforded the opportunity to do it for a

11:30:54 18 little while, you know I was interested

11:30:55 19 in the position, you knew Chris and I

11:30:58 20 interviewed for the position, therefore,

11:31:00 21 I would have liked the opportunity to

11:31:02 22 have done it for a little while. And he

11:31:05 23 kind of excused and he kept on repeating

11:31:07 24 that, you know, the reason why Rich was

11:31:09 25 given the temporary assignment to do it

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HOWARD A. HENRY

11:31:12 2 was that he did it for a little while.

11:31:14 3 Q. Did he explain any other,

11:31:16 4 did Mr. Schaschl explain any other

11:31:17 5 reason for his decision in choosing Mr.

11:31:21 6 DeFeciani?

11:31:22 7 A. No.

11:31:23 8 Q. Did you ask?

11:31:23 9 A. I mean -- yes, I asked him,

11:31:25 10 I said -- you know, sorry, I didn't

11:31:28 11 mean to cut you off.

11:31:29 12 Q. No, go ahead.

11:31:30 13 A. I mean basically I

11:31:31 14 questioned him again and I said so he

11:31:33 15 did it for a little while and he said

11:31:35 16 yes. That was it.

11:31:40 17 Q. Is there anything else you

11:31:41 18 recall from this conversation with Mr.

11:31:44 19 Schaschl in January of 2004, anything

11:31:45 20 else you said or anything else he said?

11:31:47 21 A. Regarding this particular

11:31:48 22 issue?

11:31:49 23 Q. Yes.

11:31:49 24 A. Not that I can recall.

11:31:54 25 Q. Did you tell Mr. Schaschl

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HOWARD A. HENRY

11:31:58 2 that you believed you had not been
11:32:00 3 chosen because of your race?

11:32:01 4 A. At that time, no.

11:32:09 5 Q. At that time, January 2004,
11:32:10 6 had you told anyone that you believed
11:32:12 7 that you had not been chosen for any
11:32:16 8 particular position because of your
11:32:17 9 race?

11:32:18 10 A. I started to suspect certain
11:32:22 11 things at that time, but I didn't want
11:32:24 12 to come out right and say it until I
11:32:29 13 felt, you know, that was the case.

11:32:31 14 Q. So before -- at this time you
11:32:35 15 had made no complaint with anyone at
11:32:37 16 Wyeth regarding racial discrimination of
11:32:39 17 any sort, January of 2004?

11:32:42 18 A. Not that I can recall, no.

11:32:48 19 Q. You mentioned in your
11:32:53 20 meeting with Mr. Schaschl in January
11:32:56 21 2004, you mentioned something about Mr.
11:32:57 22 DeFeciani being out for a period of
11:33:01 23 time and you had wanted to fill in for
11:33:04 24 him. Can you explain to me what that
11:33:06 25 was about?

1

HOWARD A. HENRY

11:33:07 2

A. Mr. DeFeciani went out on

11:33:11 3

medical leave. He had to get some

11:33:13 4

heart surgery. So there was going to

11:33:18 5

be someone who was going to fill the

11:33:20 6

position as an interim, and it was

11:33:28 7

going to -- that's how the position was

11:33:30 8

made available on an interim basis.

11:33:33 9

Q. So Mr. DeFeciani went out on

11:33:37 10

medical leave?

11:33:37 11

A. Right.

11:33:38 12

Q. With the understanding that

11:33:38 13

he would be returning to Wyeth?

11:33:40 14

A. Right.

11:33:41 15

Q. Returning to the same

11:33:42 16

position?

11:33:42 17

A. Right.

11:33:42 18

Q. So the position was just

11:33:46 19

someone filling in in Mr. DeFeciani's

11:33:48 20

absence, correct?

11:33:49 21

A. Right.

11:33:50 22

Q. Did you tell anyone that you

11:33:53 23

were interested in this particular

11:33:56 24

position or filling in for Mr.

11:34:00 25

DeFeciani when he was out on medical

1

HOWARD A. HENRY

11:34:03 2 leave?

11:34:07 3 A. I had a discussion with Mr.
11:34:08 4 Wardrop as to why I wasn't afforded the
11:34:14 5 opportunity to do it when Chris was
11:34:16 6 out.

11:34:16 7 Q. Mr. Wardrop or Mr. Schaschl?

11:34:18 8 A. Mr. Wardrop.

11:34:19 9 Q. And when did that
11:34:21 10 conversation occur?11:34:21 11 A. It was -- it occurred around
11:34:24 12 January of -- January/February of 2003.11:34:31 13 Q. And this was after the time
11:34:42 14 period where Mr. DeFeciani had gone out
11:34:45 15 and returned from medical leave?11:34:47 16 A. I can't recall. I don't
11:34:51 17 know.11:34:51 18 Q. Do you know whether you told
11:34:53 19 anybody, anybody at Wyeth that you were
11:34:58 20 interested in filling in for Mr.11:35:02 21 DeFeciani either before he went out on
11:35:05 22 his medical leave or during his medical
11:35:08 23 leave?11:35:09 24 A. I don't recall. I don't
11:35:15 25 recall.

1

HOWARD A. HENRY

11:35:15 2 Q. When you met with Mr.

11:35:29 3 Wardrop in January/February 2003, what
11:35:33 4 was the purpose of this meeting?

11:35:37 5 A. Just so that we could

11:35:40 6 discuss certain production issues on

11:35:44 7 the floor, certain roles of certain

11:35:50 8 individuals, including myself, and just

11:35:54 9 to kind of lay out how we're going to

11:36:00 10 proceed throughout the year.

11:36:03 11 Q. And did you bring up the

11:36:05 12 issue of the production coordinator

11:36:07 13 position, filling in for Mr. DeFeciani?

11:36:13 14 A. Yes.

11:36:14 15 Q. What did you say about that?

11:36:15 16 A. Basically I told him that,

11:36:17 17 you know, I know that basically, most

11:36:23 18 of the time people get positions

11:36:25 19 because they do it for a little while.

11:36:27 20 I interviewed for the position

11:36:29 21 officially in 2002, and I would have --

11:36:32 22 I would have liked an opportunity to

11:36:34 23 fill the position on that interim

11:36:38 24 basis, why wasn't I given that

11:36:39 25 opportunity. And he basically stated

1

HOWARD A. HENRY

11:36:43 2 that they, meaning Schaschl and others,
11:36:46 3 because I asked him who's the they, he
11:36:48 4 said Andy and some others, I didn't ask
11:36:51 5 him who the others were, told him, I
11:36:54 6 mean basically made a decision that
11:36:57 7 Rich Morgan would be able to do it for
11:36:59 8 a little while, should be given the
11:37:02 9 opportunity to do it for a little
11:37:03 10 while.

11:37:06 11 Q. And was in fact Chris Morgan
11:37:09 12 the individual who filled in for Mr.
11:37:11 13 DeFeciani?

11:37:12 14 A Yes

11:37:12 15 Q. Had Mr. Morgan been filling
11:37:15 16 in for Mr. DeFeciani prior to this --

11:37:19 17 A. I don't know.

11:37:19 18 Q. -- when he was absent for
11:37:22 19 short periods of time?

11:37:23 20 A. I don't know.

11:37:24 21 Q. Do you know anything about
11:37:33 22 Mr. DeFeciani's qualifications for this
11:37:36 23 particular position as a production
11:37:37 24 coordinator?

11:37:39 25 A. As to when he first got it

1

HOWARD A. HENRY

11:37:43 2 or him performing the duties himself?

11:37:48 3 Q. Let's start with when he
11:37:49 4 first got it.

11:37:50 5 A. No.

11:37:51 6 Q. And how about today, as you
11:37:55 7 sit here?

11:38:01 8 A. I mean no.

11:38:07 9 Q. Do you have any reason to
11:38:08 10 believe that Mr. DeFeciani was not
11:38:10 11 qualified for the position?

11:38:11 12 A. No.

11:38:12 13 Q. At the time he was hired?

11:38:13 14 A. No.

11:38:13 15 Q. Do you have any reason to
11:38:15 16 believe that he was not qualified at
11:38:19 17 any time he was serving in this
11:38:20 18 position?

11:38:21 19 A. No.

11:38:21 20 Q. Do you have any reason to
11:38:40 21 believe -- strike that.

11:38:41 22 Can you tell me what your
11:38:43 23 basis is for believing that you were
11:38:46 24 not selected for this particular
11:38:48 25 position because of your race?

1

HOWARD A. HENRY

11:38:51 2

A. When I approached Mr.

11:38:55 3

Schaszl and I asked him, you know, he

11:39:01 4

appeared truculent and he stated that

11:39:06 5

basically the reason why Chris got it

11:39:10 6

was because he did it for a little

11:39:11 7

while. I stated that well I wanted the

11:39:14 8

opportunity to do it for a little

11:39:16 9

while, you were well aware of the fact

11:39:18 10

that I interviewed for the position

11:39:19 11

previously, and that should an

11:39:22 12

opportunity like this come up, I should

11:39:25 13

have been afforded that opportunity.

11:39:31 14

And I don't recall his

11:39:32 15

response at this time, but for all

11:39:39 16

intents and purposes he just stated

11:39:40 17

that well, at that time the decision

11:39:43 18

was made because Chris had did it for a

11:39:46 19

little while.

11:39:47 20

Q. Anything else?

11:39:49 21

A. No, I can't recall at this

11:39:51 22

time.

11:39:51 23

Q. Now how about Mr. Morgan,

11:39:57 24

the individual who filled in for Mr.

11:39:59 25

DeFeciani during his medical leave, do

1

HOWARD A. HENRY

11:40:03 2 you know anything about his
11:40:04 3 qualifications for filling in for this
11:40:08 4 particular position?

11:40:09 5 A. Well, he was a production
11:40:12 6 supervisor. He started out as a
11:40:16 7 pharmaceutical operator. As far as his
11:40:21 8 education, he didn't have a degree at
11:40:30 9 the time.

11:40:30 10 Q. Anything else?

11:40:32 11 A. That's basically it.

11:40:35 12 Q. Do you know whether a degree
11:40:37 13 is required for this position?

11:40:40 14 A. I don't remember the exact
11:40:44 15 job posting. From what I do recall I
11:40:47 16 think a degree, they requested a
11:40:49 17 degree.

11:40:50 18 Q. But there was no job posting
11:40:53 19 for the position when it -- when Mr.
11:40:57 20 DeFeciani went out on medical leave?

11:41:00 21 A. No.

11:41:00 22 Q. There really was no
11:41:01 23 position?

11:41:02 24 A. Well, no, there wasn't. No.

11:41:07 25 Q. It was just filling in?

1

HOWARD A. HENRY

11:41:09 2 A. Yes.

11:41:10 3 Q. Mr. Morgan didn't get a new
11:41:14 4 title during this position, did he, as
11:41:17 5 far as you know?

11:41:18 6 A. Well, he would sign things
11:41:19 7 electronically interim production
11:41:22 8 coordinator. And, you know, they
11:41:26 9 afforded us a loose interpretation of
11:41:29 10 using titles like that if you did
11:41:32 11 something on an interim basis.

11:41:34 12 Q. Did he continue to use that
11:41:36 13 title after his period of filling in
11:41:39 14 for Mr. DeFeciani ended?

11:41:41 15 A. No.

11:41:42 16 Q. Do you have any reason to
11:41:52 17 believe that Mr. Morgan was not
11:41:53 18 qualified to step in and temporarily
11:41:57 19 perform the production coordinator job
11:42:00 20 duties during Mr. DeFeciani's absence?

11:42:03 21 A. No.

11:42:04 22 Q. And can you tell me what
11:42:09 23 your basis is for believing that you
11:42:13 24 were not asked to fill in for Mr.
11:42:18 25 DeFeciani during his medical leave

1 HOWARD A. HENRY

11:42:26 2 because of your race?

11:42:28 3 A. Usually, the -- more -- many

11:42:37 4 of the individuals that had that

11:42:39 5 position went on to become managers.

11:42:42 6 So this position has a lot of exposure,

11:42:46 7 introduces you to a lot of situations

11:42:49 8 that a manager considers as he moves

11:42:53 9 throughout the corporate structure. So

11:42:56 10 this position is used as a stepping

11:42:58 11 stone toward management.

11:43:04 12 And basically, I made it

11:43:07 13 known throughout my constant speaking

11:43:12 14 with individuals that I wanted to

11:43:13 15 improve, acquire more knowledge and

11:43:18 16 sought management positions, a

11:43:20 17 management position within the

11:43:21 18 organization.

11:43:22 19 Q. Do you have any other basis

11:43:30 20 for believing that you were denied this

11:43:33 21 opportunity because of your race?

11:43:35 22 A. No.

11:43:40 23 Q. Do you know who made the

11:43:51 24 decision to have Mr. Morgan fill in for

11:43:53 25 Mr. DeFeciani during his absence?

1

HOWARD A. HENRY

11:43:56 2 A. From what Mr. Wardrop told
11:43:57 3 me it was Andy Schaschl's decision.

11:44:00 4 Q. Do you know whether Mr.
11:44:02 5 DeFeciani had any input in this
11:44:05 6 decision?

11:44:05 7 A. No.

11:44:06 8 Q. If I can refer you to the
11:44:20 9 complaint which has been marked as
11:44:21 10 Exhibit number 4, paragraph 25.

11:44:28 11 A. Yes.

11:44:29 12 Q. Paragraph 25 says, "In the
11:44:31 13 spring of 2003, Howard complained to
11:44:35 14 Walter Wardrop regarding his denial of
11:44:37 15 advancement opportunities."

11:44:41 16 A. Right.

11:44:41 17 Q. Is that the conversation
11:44:46 18 with Mr. Wardrop that you had referred
11:44:49 19 to --

11:44:51 20 A. Yes.

11:44:51 21 Q. -- a little while ago?

11:44:53 22 A. Yes.

11:44:53 23 Q. And what advancement
11:44:57 24 opportunities did you discuss at this
11:45:00 25 particular meeting?

1

HOWARD A. HENRY

11:45:03 2

A. The mainly --

11:45:04 3

Q. Was it -- I'm sorry.

11:45:05 4

A. No, go on.

11:45:07 5

Q. Was it just the three

11:45:09 6

positions that we have just discussed,

11:45:11 7

the project -- well, I should say two

11:45:13 8

positions, the project engineer

11:45:14 9

position and the production coordinator

11:45:16 10

position?

11:45:17 11

A. From what I can recall, yes.

11:45:20 12

Q. Okay. What was the next

11:45:31 13

position that you were -- that you had

11:45:34 14

applied for but did not receive?

11:45:43 15

A. I think it was the process

11:45:45 16

engineer position.

11:45:48 17

Q. And that position was in the

11:45:49 18

vaccine division; is that correct?

11:45:52 19

A. Yes.

11:45:52 20

Q. That's a separate division

11:45:54 21

than you were working in?

11:45:56 22

A. Yes.

11:45:57 23

Q. And it's a separate division

11:45:59 24

than the production coordinator

11:46:02 25

position you had previously applied to?

HOWARD A. HENRY

A. Yes.

Q. As well as the project

engineer position that you previously have applied to?

A. Yes.

Q. And how did you apply for

this position?

A. Through the bidding process

Q. What happened after you

submitted your bid?

A. I think I got confirmed.

that my bid was received.

Q. What happened next?

A. From what I remember, I was contacted about an interview.

Q. And did you interview?

A. Yes

Q. Who did you interview with?

A. A gentleman by me I think

his name was Kirit Rokad, I think.

Q. And who was Kirit Rokad?

A. He was the person that the

position reported into

9. So is it your understanding

1 HOWARD A. HENRY

11:47:12 2 that he was the individual who was
11:47:14 3 going to be making the hiring decision
11:47:15 4 with this job?

11:47:16 5 A. Yes.

11:47:16 6 Q. And do you know what his
11:47:18 7 position was at this time?

11:47:18 8 A. No.

11:47:22 9 Q. Did you know him before --

11:47:25 10 A. No.

11:47:26 11 Q. And can you tell me what
11:47:28 12 your understanding of this position
11:47:29 13 was?

11:47:30 14 A. It was performing functions
11:47:35 15 within the vaccine area as an engineer
11:47:39 16 dealing with their equipment, dealing
11:47:41 17 with aseptic conditions.

11:47:51 18 Q. And why were you interested
11:47:52 19 in this position?

11:47:54 20 A. Basically, after the
11:48:00 21 restructuring, I decided that perhaps
11:48:02 22 maybe I should look at some other
11:48:04 23 opportunities outside of the consumer
11:48:08 24 health division. So I started to look
11:48:12 25 outside.

1

HOWARD A. HENRY

11:48:18 2

MR. McQUADE: Could you

11:48:18 3

please mark that.

4

(Henry Exhibit 5 for

5

identification, interview schedule for
the process engineer position.)

11:48:31 6

Q. Mr. Henry, I've handed you
an exhibit marked Exhibit number 5. Do
you recognize this document?

11:48:53 10

A. Yes.

11:48:53 11

Q. And what is it?

11:48:54 12

A. Interview schedule for

11:48:56 13

the -- for the process engineer
position.

11:48:59 15

Q. And does this refresh your
recollection as to who you interviewed
with?

11:49:05 18

A. Yes.

11:49:06 19

Q. Robert Ruth, do you remember
your interview with Robert Ruth?

11:49:14 21

A. I remember meeting him. I
don't remember exactly everything that
was said.

11:49:22 24

Q. Kirit Rokad we already spoke
about. You also met with Andrew Fong.

11:49:25 25

1

HOWARD A. HENRY

11:49:28 2 A. Right.

11:49:29 3 Q. Do you remember anything
11:49:30 4 about that particular meeting?

11:49:31 5 A. Not everything that was
11:49:32 6 said, no.

11:49:33 7 Q. Rich Musa, you interviewed
11:49:34 8 with Rich as well?

11:49:35 9 A. Yes.

11:49:36 10 Q. Do you remember anything
11:49:37 11 from that?

11:49:37 12 A. Vaguely.

11:49:42 13 Q. Gaurav Patel?

11:49:45 14 A. Yes.

11:49:46 15 Q. Do you remember anything
11:49:51 16 from that interview?

11:49:52 17 A. Not at this time.

11:49:53 18 Q. You also interviewed with
11:49:55 19 Monica Amonica?

11:49:57 20 A. Yes.

11:49:57 21 Q. Do you remember anything
11:49:58 22 from that particular interview?

11:49:59 23 A. No.

11:50:00 24 Q. Did you consider this
11:50:10 25 position a promotion?

1 HOWARD A. HENRY

11:50:10 2 A. Yes.
11:50:13 3 Q. Why?
11:50:13 4 A. There was going to be a
11:50:15 5 level change from what I understand
11:50:19 6 involved.

11:50:21 7 Q. When you say level change,
11:50:22 8 that's the salary level?

11:50:24 9 A. Right.

11:50:24 10 Q. Do you know what the salary
11:50:26 11 level for this position was?

11:50:27 12 A. I can't recall.

11:50:28 13 Q. Is there any other reason
11:50:37 14 why you viewed it as a promotion?

11:50:39 15 A. Opportunity, another area.

11:50:44 16 Q. Do you know who else bid on
11:50:46 17 this particular --

11:50:50 18 A. No.

11:50:50 19 Q. -- position? Do you know
11:50:52 20 who was hired for this particular
11:50:53 21 position?

11:50:53 22 A. I remember -- I remember a
11:50:59 23 name Martinez. I don't remember
11:51:01 24 anything other than that.

11:51:02 25 Q. Do you know anyone by the

1

HOWARD A. HENRY

11:51:04 2 name of Angel Montanez?

11:51:08 3 A. No, not that I can recall.

11:51:16 4 Q. So you thought someone by

11:51:18 5 the name of Martinez may have --

11:51:19 6 A. I thought that's what it was

11:51:21 7 but I don't know.

11:51:22 8 Q. But you don't know, as you

11:51:23 9 sit here today you don't know who was

11:51:25 10 hired for this position?

11:51:26 11 A. Without a shadow of a doubt,

11:51:28 12 no.

11:51:28 13 Q. Who do you think might be

11:51:30 14 hired for this position?

11:51:31 15 A. I don't know. With all due

11:51:33 16 respect, I don't know.

11:51:33 17 Q. So you don't know who was

11:51:35 18 hired for the position, you don't know

11:51:36 19 who applied for the position all you

11:51:41 20 know is that you, yourself applied for

11:51:44 21 this position, correct?

11:51:44 22 A. Yes.

11:51:45 23 Q. Do you believe that you were

11:51:47 24 qualified for this position?

11:51:48 25 A. Yes.

1 HOWARD A. HENRY

11:51:49 2 Q. How so?

11:51:50 3 A. Based on the posting I had
11:51:52 4 the qualifications. They requested an
11:51:56 5 engineering background and some of the
11:52:00 6 descriptions that were -- that they
11:52:02 7 described met some of the
11:52:07 8 qualifications that I had.

11:52:09 9 Q. Had you ever worked in the
11:52:13 10 vaccine division at Wyeth before?

11:52:15 11 A. No.

11:52:16 12 Q. Do you believe that it would
11:52:17 13 have been an advantage to hire someone
11:52:19 14 who had been working in that division?

11:52:23 15 A. Yes.

11:52:24 16 Q. Why?

11:52:24 17 A. Exposure and experience
11:52:29 18 sometimes defeats some of the things
11:52:32 19 that you may think a person may have,
11:52:36 20 so. A proven track record helps.

11:52:42 21 Q. And had you ever worked with
11:52:45 22 any of the individuals in this division
11:52:49 23 that you interviewed with?

11:52:51 24 A. Yes.

11:52:52 25 Q. And who was that?

1

HOWARD A. HENRY

11:52:53 2 A. Rich Musa.

11:52:55 3 Q. Other than Rich?

11:52:57 4 A. No.

11:52:59 5 Q. And what is your basis for
11:53:04 6 believing that you were denied this
11:53:06 7 particular position because of your
11:53:09 8 race?11:53:10 9 A. Well, I didn't -- I didn't
11:53:12 10 express that I was denied this

11:53:14 11 particular position because of my race.

11:53:15 12

Q. Do you believe that as we
11:53:17 13 sit here today?

11:53:18 14

A. No.

11:53:19 15

Q. So you don't believe --
11:53:22 16 okay.

11:53:39 17

Can you tell me what the
11:53:39 18 next position you applied for and were
11:53:42 19 denied?

11:53:43 20

A. Staff engineer.

11:53:45 21

Q. And do you know when that
11:53:47 22 was?

11:53:48 23

A. Same time, around January,
11:53:50 24 February 2004.

11:53:55 25

Q. And in what division was

1 HOWARD A. HENRY

11:54:08 2 that position?

11:54:09 3 A. I think it was bioprocess.

11:54:20 4 Q. And where does bioprocess
11:54:22 5 fit in?

11:54:24 6 A. In the research aspect of
11:54:26 7 Wyeth.

11:54:27 8 Q. It's a different department
11:54:39 9 separate from the departments in which
11:54:43 10 the production coordinator and project
11:54:46 11 engineer positions?

11:54:50 12 A. Yes.

11:54:52 13 Q. And how did you apply for
11:54:55 14 this position?

11:54:56 15 A. Through the bidding process.

11:54:58 16 Q. And what happened after you
11:55:08 17 submitted your bid?

11:55:09 18 A. I think I received
11:55:10 19 confirmation that I got the -- that my
11:55:13 20 application was received.

11:55:19 21 Q. Anything else happen?

11:55:21 22 A. No. That I could recall,
11:55:25 23 no.

11:55:25 24 Q. Did you ever interview for
11:55:27 25 this position?

1 HOWARD A. HENRY

11:55:27 2 A. No.

11:55:28 3 Q. Did you apply for -- did you
11:55:30 4 submit just one bid?

11:55:31 5 A. There was two jobs opening
11:55:34 6 and I think I submitted one bid. I may
11:55:36 7 have submitted two.

11:55:40 8 Q. When you said there were two
11:55:41 9 jobs opening, is that --

11:55:43 10 A. There were two jobs with two
11:55:45 11 different posting numbers, so that
11:55:47 12 means there were two positions
11:55:48 13 available.

11:55:48 14 Q. They were both staff
11:55:50 15 engineer positions?

11:55:51 16 A. Yes.

11:55:52 17 Q. And you know you submitted a
11:55:55 18 bid for one of these positions; is that
11:55:58 19 correct?

11:55:58 20 A. Yes.

11:55:58 21 Q. But you're not sure if you
11:56:00 22 submitted two bids?

11:56:01 23 A. Right. I may have, but I
11:56:04 24 don't remember.

11:56:04 25 Q. Do you know who -- how

1 HOWARD A. HENRY

11:56:11 2 this -- or I should say how these staff
11:56:16 3 engineer positions came to be opened?

11:56:22 4 A. They were posted on the
11:56:23 5 website, the Wyeth job listing website.

11:56:26 6 Q. Who held these positions
11:56:28 7 previously?

11:56:29 8 A. I don't know. I don't know
11:56:30 9 if they were newly recreated. I don't
11:56:34 10 know.

11:56:34 11 Q. What does a staff engineer
11:56:36 12 do?

11:56:37 13 A. From what I recall, they
11:56:38 14 dealt with the staging of reactions,
11:56:46 15 the taking care of equipment associated
11:56:48 16 with bioprocesses. They were basically
11:56:53 17 going to oversee other engineers that
11:56:58 18 were of lower seniority than they were
11:57:01 19 and schedule their work and schedule
11:57:03 20 some of their duty, from what I
11:57:05 21 understand. I don't remember all of
11:57:06 22 the information with the posting. But
11:57:10 23 it was familiar to me the duties.

11:57:16 24 Q. And do you remember who the
11:57:18 25 supervisor would be for each of these

1

HOWARD A. HENRY

11:57:20 2 two openings as a staff engineer?

11:57:23 3 A. I know -- I think it said

11:57:26 4 the position reported to a gentleman by
11:57:28 5 the name of John Simpson.

11:57:31 6 Q. Who is John Simpson?

11:57:34 7 A. I think he was a director at
11:57:36 8 the time for that particular area.11:57:38 9 Q. Did you have any prior
11:57:40 10 relationship with Mr. Simpson?

11:57:41 11 A. We interacted.

11:57:46 12 Q. How did you interact?

11:57:48 13 A. Well when I was in research
11:57:51 14 sometimes there was a period where I
11:57:53 15 was working for the division and there
11:58:00 16 was some -- they needed help in that
11:58:02 17 area and I worked with some of the
11:58:04 18 engineers over in that area, and John
11:58:07 19 Simpson and some other individuals were
11:58:10 20 the head -- were heads in that area.

11:58:12 21 Q. Do you know who was

11:58:18 22 ultimately selected for the position,
11:58:21 23 these two positions as staff engineer?11:58:23 24 A. I was told Andrew Safernack
11:58:26 25 and David Anderson were the two

1

HOWARD A. HENRY

11:58:30 2 gentlemen.

11:58:30 3 Q. Who told you that?

11:58:31 4 A. When I went down to the area
11:58:33 5 I inquired and there were certain
11:58:36 6 individuals who explained to me that
11:58:38 7 those were individuals chosen.11:58:40 8 Q. Who did you inquire with
11:58:44 9 about this and who told you this?11:58:45 10 A. A gentleman by the name of
11:58:47 11 Gary Forrest.

11:58:50 12 Q. Who is Gary Forrest?

11:58:53 13 A. He is a director over there
11:58:56 14 at the time. He may have been an
11:58:57 15 associate director. He was over there.
11:58:59 16 at the time.11:59:02 17 Q. Did he tell you anything
11:59:04 18 else about Mr. Safernack or Mr.
11:59:07 19 Anderson?

11:59:08 20 A. No.

11:59:08 21 Q. Did you ask him anything
11:59:09 22 else about these positions?11:59:11 23 A. I think I asked him will
11:59:15 24 there be any more openings. He said he
11:59:18 25 wasn't sure.

1

HOWARD A. HENRY

11:59:19 2

Q. Do you know -- well, you

11:59:28 3

said it's your understanding that Mr.

11:59:31 4

Simpson made the decision?

11:59:32 5

A. Right. When I had my resume
I gave it to him personally, so yes.

11:59:38 7

Q. What did you tell him when
you gave him your resume?

11:59:42 9

A. I said I'm very interested
in this position, I would like to be
interviewed for it. He said well then
we're taking our time in the review
process, but hopefully somebody will
contact you regarding it.

11:59:55 15

Q. Anything else that you
recall?

11:59:58 17

A. Not that I can recall.

11:59:59 18

Q. With Mr. Simpson? Did you
have any other discussions with Mr.
Simpson about these positions?

12:00:04 21

A. Not that I can recall.

12:00:05 22

Q. So you don't know how the
decision was made?

12:00:08 23

A. No.

12:00:09 24

Q. You don't know who was

12:00:10 25

1 HOWARD A. HENRY

13:45:11 2

A. They changed the structure

13:45:12 3

from time to time. They changed the

13:45:14 4

criteria from time to time, how they

13:45:17 5

did it. But you got appraised every

13:45:19 6

year.

13:45:19 7

Q. And how did that appraisal
process work?

13:45:22 9

A. Depending on the year, your
supervisor would discuss your

13:45:28 10

achievements and goals at the end of a
particular year. So in this case, it

13:45:32 12

went from January 2000 to December of

13:45:40 13

2000.

13:45:46 14

Q. And did you typically meet
with the manager or supervisor who
completed the performance evaluation
for you?

13:45:53 19

A. Yes.

13:45:54 20

Q. And who was the supervisor
that performed this performance
evaluation?

13:45:58 21

A. Walter Wardrop.

13:45:59 22

Q. And did you meet with Mr.

13:46:00 23

Wardrop regarding this performance

1

HOWARD A. HENRY

13:46:07 2 evaluation?

13:46:07 3 A. Yes.

13:46:08 4 Q. Do you recall anything about

13:46:11 5 that meeting in particular, what he

13:46:15 6 said, what you said, what was

13:46:16 7 discussed?

13:46:17 8 A. He asked, he said that he

13:46:22 9 got feedback from my previous

13:46:24 10 supervisor based on my performance in

13:46:27 11 that area, because I was new to the

13:46:29 12 area. So basically he only had a few

13:46:32 13 months to evaluate me.

13:46:38 14

13:46:40 15 So we discussed my role in
13:46:46 16 the area, how he saw the role and how I
13:46:49 17 can -- I told him about my desires to
13:46:52 18 grow within the area, learn my duties
13:46:56 19 and do them well, and to just continue
13:46:59 20 to grow as an engineer, as an
13:47:01 21 individual in the organization.

13:47:05 22 Q. If you'd turn to Page 4 of
13:47:08 23 this performance review, it provides a
13:47:11 24 summary of the performance and there's
13:47:14 25 an overall rating that is provided. Do
you see that?

1

HOWARD A. HENRY

13:47:14 2

A. Yes.

13:47:15 3

Q. And what is your overall rating for this year?

13:47:19 5

A. It said solid performer, which is a three.

13:47:22 7

Q. And there are four different rating categories -- I'm sorry, five different rating categories on this particular form; is that correct?

13:47:29 11

A. Correct.

13:47:30 12

Q. A solid performer falling right in the middle, correct?

13:47:36 14

A. Correct.

13:47:37 15

Q. If you turn the page to Page 5, you see under section 5 there's a section for employee comments?

13:47:47 18

A. Right.

13:47:47 19

Q. You didn't provide any comment, did you?

13:47:50 21

A. No.

13:47:51 22

Q. And you signed this agreement. Is that your signature there?

13:47:54 23

A. Yes.

1

HOWARD A. HENRY

13:47:56 2

Q. And then under yours is

13:47:59 3

Walter Wardrop's signature?

13:48:00 4

A. Yes.

13:48:00 5

Q. And then do you recognize

13:48:02 6

the signature under Mr. Wardrop's

13:48:04 7

signature?

13:48:05 8

A. I believe that's Jack

13:48:06 9

Riley's.

13:48:07 10

Q. And who is Jack Riley?

13:48:08 11

A. He was the director in the
area at that time.

13:48:17 13

Q. Did you have any

13:48:18 14

disagreement with anything written in
this performance evaluation? I'll

13:48:19 15

rephrase the question for you. Do you
recall having any disagreement with
this performance review?

13:49:15 16

A. No.

13:49:16 17

Q. Okay.

Do you recall
thinking whether it was a -- whether
you thought it was a good review?

13:49:26 21

A. No.

13:49:27 22

Q. You have no recollection?

13:49:32 23

A. I felt -- I felt that I was

13:49:33 24

13:49:34 25

1
13:49:38 2 HOWARD A. HENRY
13:49:42 3 new to the area so there was not much I
13:49:47 4 could have, you know -- at that time, I
13:49:54 5 was rather green to the area, so. Just
13:49:55 6 getting -- I was getting to know just
13:50:01 7 some of the duties in the area, so. I
13:50:04 8 was -- I was -- at that time I was
accepting of it.

13:50:06 9 Q. Had you received ratings
13:50:12 10 of -- well strike that.

11
12 (Henry Exhibit 11 for
13:50:15 13 identification, Bates stamped 4020
through 4025.)

13:50:15 14 Q. I'm going to hand you
13:50:16 15 another document which has been marked,
13:50:18 16 Exhibit 11. Do you recognize this
13:50:31 17 document?

13:50:31 18 A. Yes.

13:50:32 19 Q. And what is this?

13:50:33 20 A. My performance evaluation
13:50:35 21 for 2001.

13:50:36 22 Q. And who completed this
13:50:38 23 evaluation for you?

13:50:38 24 A. Walter Wardrop.

13:50:40 25 Q. Did you meet with Mr.

1

HOWARD A. HENRY

13:50:41 2

Wardrop about this evaluation?

13:50:43 3

A. Yes.

13:50:44 4

Q. And what did you discuss?

13:50:48 5

A. He was pleased with my

13:50:50 6

performance. He was happy of the

13:50:53 7

strides that I made. He liked the fact

13:50:55 8

that I got along with people, my

13:50:58 9

leadership qualities, the type of

13:51:01 10

individual I was, how I was a leader in

13:51:05 11

my department when it came to a lot of

13:51:06 12

issues, and how I've grown as a person,

13:51:11 13

as an engineer, my respect for people,

13:51:14 14

how I collaborate well, the quality of

13:51:18 15

work I produced, my integrity.

13:51:25 16

Q. Did Mr. Wardrop have any

13:51:30 17

criticism that you recall of your
performance, constructive or otherwise?

13:51:32 18

A. I can't recall.

13:51:36 19

Q. How was your relationship

13:51:41 20

with Mr. Wardrop at this time?

13:51:43 21

A. I felt it was good, very

13:51:46 22

good I felt at the time.

13:51:48 23

Q. Again I notice that on Page

13:51:59 24

5 employee comments there's -- you

1
13:52:01 2 HOWARD A. HENRY
13:52:04 3 didn't provide any comments, did you?
13:52:05 4
13:52:10 5
13:52:12 6
13:52:17 7
13:52:20 8
13:52:23 9
13:52:24 10
13:52:27 11
13:52:32 12
13:52:35 13
13:52:37 14
13:52:39 15
13:52:42 16
13:52:45 17
13:52:47 18
13:52:49 19
13:52:51 20
13:52:53 21
13:52:55 22
13:52:58 23
13:52:59 24
13:53:01 25

A. Sometimes when you do the review he -- it's read to you, and a lot of times you forget about the employee comment page. So at that -- you know, sometimes you may -- you may think -- you may discuss certain things you want to have added to your experience, certain things you want to do, certain ideas you may have and just your growth. I do remember discussing at most of these reviews that I want to grow within the company, I wanted to learn more skills, I desired to go on to become a manager.

So I may not have put it down here, but we would discuss it.

Q. Was it Mr. -- do you recall whether Mr. Wardrop, when you sat down with him with this performance review or any other performance review, did he read it to you?

A. Sometimes he would, yes. He would read it.

1
13:53:02 2 HOWARD A. HENRY

13:53:04 3 Q. And he'd give you -- in
13:53:06 4 addition, he'd give you a copy?

13:53:08 5 A. Sometimes you'd get the copy
13:53:09 6 afterwards. Like I didn't get a copy
13:53:12 7 of this until I requested it later on.
13:53:14 8 So I didn't have a copy.

13:53:23 9 Q. Do you recall having -- do
13:53:24 10 you recall disagreeing with anything
13:53:25 11 written in this particular performance
13:53:26 12 review?

13:53:27 13 A. No, I don't recall I
14 disagreed with anything.

15 (Henry Exhibit 12 for
13:53:35 16 identification, Bates stamped 4015
13:53:35 17 through 4019.)

13:53:36 18 Q. I'm handing you a document
13:53:52 19 that's been marked Henry Exhibit 12.
13:53:53 20 Do you recognize this?

13:53:56 21 A. Yes.

13:53:57 22 Q. And what is it?

13:53:59 23 A. My performance evaluation
13:54:01 24 for 2002.

13:54:03 25 Q. And at this time Mr. Wardrop
was still your supervisor?

1
HOWARD A. HENRY

13:54:04 2 A. Yes.

13:54:05 3 Q. Do you recall your
13:54:12 4 meeting -- did you have a meeting with
13:54:13 5 Mr. Wardrop --

13:54:15 6 A. Yes.

13:54:17 7 Q. -- about this performance
13:54:17 8 review?

13:54:17 9 A. Yes.

13:54:18 10 Q. Do you remember anything
13:54:20 11 from that meeting?

13:54:22 12 A. I remember that I felt that
13:54:25 13 I should have been rated higher for
13:54:26 14 some of the things I was able to
13:54:29 15 accomplish that were critical in the
13:54:32 16 group. I remember when he gave me the
13:54:35 17 line item 2 for the special project
13:54:37 18 that I told him that I did do it, but I
13:54:40 19 didn't have a chance to give it to him
13:54:44 20 and he understood that.

13:54:49 21
13:54:51 22 But other than that, I told
13:54:53 23 him that, you know, I want to continue
13:54:55 24 to grow, and I asked him what would it
take for me to be a five because I was
a four twice, I always want to improve,

1
 13:54:58 2
 13:55:01 3
 13:55:04 4
 13:55:07 5
 13:55:09 6
 13:55:12 7
 13:55:15 8
 13:55:25 9
 13:55:27 10
 13:55:30 11
 13:55:32 12
 13:55:36 13
 13:55:37 14
 13:55:40 15
 13:55:43 16
 13:55:47 17
 13:55:53 18
 13:55:55 19
 13:55:56 20
 13:55:58 21
 13:56:00 22
 13:56:02 23
 13:56:02 24
 13:56:04 25

HOWARD A. HENRY

and he said that I was very, you know, close to doing that, I wasn't, you know, far from accomplishing that, you know, and he would try to create mechanisms that he felt would get me to that particular tier.

Q. Going back to the first page, you mentioned the special project. The review states "Howard never identified or completed a special project as assigned."

A. Well, I identified one, but there was a -- there was a situation where I couldn't give it to him. So I gave it to him, showed it to him afterward. But this had already been -- this had already been written, so based on that he couldn't change anything, but we discussed it.

Q. Did he remind you several times about getting the special project from you?

A. I don't recall. I think he may have made mention to it -- of it in

1
13:56:07 2 HOWARD A. HENRY
13:56:09 3 a meeting, but I don't recall.
13:56:11 4 Q. What was the special
13:56:11 5 project?
13:56:14 6 A. We were all told to just
13:56:17 7 make up a curriculum for the employees
13:56:20 8 to follow about something that you do
13:56:22 9 at the job, and I decided that I would
13:56:26 10 do -- since most people never wrote
13:56:28 11 SOPs, that I would write a special
13:56:34 12 project about SOPs to create Microsoft
13:56:37 13 Project -- not Microsoft Project, but a
13:56:40 14 PowerPoint presentation of a particular
13:56:44 15 project, and it wasn't -- it wasn't
13:56:47 16 something that had to be presented, but
13:56:49 17 it was just something he wanted, he
13:56:51 18 felt he wanted done.
13:56:52 19 Q. And did you ever get it
20 done?
13:57:03 21 A. Yes.
13:57:03 22 Q. Did you -- do you recall
13:57:04 23 disagreeing with anything in this
13:57:09 24 review?
13:57:10 25 A. Just that I felt I should
have been rated higher. I thought I

1

HOWARD A. HENRY

13:57:12 2 did -- I did things that warranted a
13:57:14 3 five. He understood.

13:57:18 4 Q. What did you do -- what had
13:57:21 5 you done that you believed warranted a
13:57:23 6 five?

13:57:24 7 A. Well, stayed, worked
13:57:27 8 different shifts, worked three to 11
13:57:30 9 shift when he asked me to, worked
13:57:32 10 midnight shift when he asked me to,
13:57:34 11 came in on weekends, stayed late,
13:57:37 12 trained the operators, trained the
13:57:38 13 management staff, troubleshoot the
13:57:40 14 equipment, came in on off hours when I
13:57:43 15 needed to, paged -- no matter what time
13:57:46 16 I was paged, answered the page, walk
13:57:49 17 them through problems, if they didn't
13:57:50 18 get through it went there myself and
13:57:52 19 showed them how it was done. Because
13:57:54 20 this was a highly recognizable project
13:57:59 21 that corporate definitely wanted us to
13:58:02 22 complete, and I was pinnacle and I was
13:58:06 23 key in terms of it being completed and
13:58:09 24 being successful.

13:58:12 25 Q. These actions you've just

1 HOWARD A. HENRY

13:58:14 2 described for me, aren't they part of
13:58:16 3 your job duties?

13:58:18 4 A. Not going on different

13:58:20 5 shifts. He asked me if I would do
13:58:22 6 that. I didn't have to do that, but he
13:58:25 7 said he would really appreciate if I
13:58:27 8 could -- if I would consider doing
13:58:29 9 that. It was not something that I had
13:58:31 10 to do. The other engineers weren't
13:58:32 11 asked to do that. I was. And I did
13:58:35 12 it.

13:58:35 13 Q. So other than the staying

13:58:40 14 late, doing different shifts, coming in
13:58:43 15 different hours, the other actions you
13:58:45 16 described are part of your normal job
13:58:48 17 duties? Yes or no.

13:58:52 18 A. Referring to this --

13:58:53 19 referring to the continuous coater
13:58:54 20 project, this project in particular?

13:58:57 21 Q. What you were just

13:58:58 22 describing. If we could back up, I
13:59:00 23 asked you what you thought you had done
13:59:03 24 in the past year that warranted a five
13:59:05 25 rating, and you listed several items

1
HOWARD A. HENRY

13:59:08 2 for me.

13:59:08 3 A. Right.

13:59:09 4 Q. Some of those items included

13:59:12 5 staying late, working different shifts,

13:59:14 6 coming in odd hours, and then you

13:59:17 7 listed several other actions that

13:59:19 8 you -- that you took over the course of

13:59:21 9 the year. I'm asking you if those

13:59:24 10 actions you listed, aren't those part

13:59:29 11 of your normal job duties?

13:59:31 12 A. Some of these functions was

13:59:32 13 outside my normal duties. My normal

13:59:37 14 duties would be to optimize the current

13:59:39 15 equipment that we had, okay.

13:59:42 16 Troubleshooting it, optimizing it,

13:59:44 17 seeking ways to enhance the process.

13:59:47 18 Outside of that would be helping the

13:59:50 19 operator, teaching him, you know,

13:59:52 20 taking off -- putting on your lab coat,

13:59:56 21 putting on your jeans and going in

13:59:58 22 there and cleaning the equipment -- the

13:59:59 23 equipment itself. I did that. That's

14:00:01 24 outside of my job function.

14:00:02 25 I would -- when they were

1

HOWARD A. HENRY

14:00:04 2 doing inspections I would be down
14:00:06 3 there. That's a supervisory function.
14:00:08 4 I would supervise the operators and the
14:00:12 5 supervisors and tell them exactly what
14:00:13 6 they should do. That's outside of my
14:00:16 7 job function. So there's a lot of
14:00:17 8 things that are not captured here that
14:00:19 9 are outside of my job function that I
14:00:21 10 performed.

14:00:21 11

14:00:23 12

14:00:25 13

14:00:25 14

14:00:27 15

14:00:33 16

14:00:35 17

14:00:38 18

14:00:40 19

14:00:42 20

14:00:45 21

22

23

14:00:49 24

14:00:49 25

Q. Did you explain these items
to Mr. Wardrop at the time of the
performance review?

A. I did. I did.

Q. What was his response?

A. He shook his head, he
understood, he respected the fact. I
said to him, you know, as far as I'm
concerned, next year I'm going to do
everything I can to be rated five. He
said okay.

(Henry Exhibit 13 for
identification, Bates stamped D 00176
and 177.)

Q. I hand you a document that's

1
14:00:50 2
14:01:05 3
14:01:07 4
14:01:08 5
14:01:10 6
14:01:11 7
14:01:13 8
14:01:19 9
14:01:22 10
14:01:24 11
14:01:24 12
14:01:25 13
14:01:31 14
14:01:33 15
14:01:33 16
14:01:36 17
14:01:37 18
14:01:43 19
14:01:46 20
14:01:52 21
14:01:54 22
14:01:55 23
14:01:58 24
14:02:01 25

HOWARD A. HENRY
been marked Exhibit 13. Can you tell
me what this document is?

MR. MORELLI: Do you have
another one?

MR. McQUADE: Oh, sorry,
yes.

MR. MORELLI: Thank you.

A. This is a midyear review.

Q. Have you seen this document
before?

A. Yes.

Q. Did you meet with Mr.
Wardrop regarding this document?

A. Yes.

Q. Was that in September 2003?

A. This was not in September
2003. Well, I mean -- this -- this was
not, from what I recall, this did not
occur on September 3rd, 2003. From
what I -- from what I recall. I don't
remember -- I don't remember it being
that time.

Q. Okay. Other than the timing
of this document, do you recall seeing

14:02:05 2

HOWARD A. HENRY

this document in --

14:02:08 3

A. I recall some of the things
on this document.

14:02:10 5

Q. Okay. And did you sit

14:02:12 6

down -- did you sit down with Mr.

14:02:14 7

Wardrop and discuss this document as
part of a midyear review?

14:02:16 8

A. Yes.

14:02:17 9

Q. Okay. So you're telling me
you're not sure --

14:02:20 10

A. Of the exact date. I don't
think it was conducted on September
3rd.

14:02:22 12

Q. Okay. When do you think it
was conducted?

14:02:23 13

A. I remember something around
April/May, around that time, something
closer to that range. I don't remember
anything like this happening in
September. We were too busy.

14:02:25 15

Q. Okay. So I'd like you to
take a close look at the document and
tell me -- well let me focus you --
under the heading "Areas to focus for

14:02:27 16

14:02:28 17

14:02:30 18

14:02:34 19

14:02:38 20

14:02:39 21

14:02:50 22

14:02:51 23

14:02:53 24

14:03:01 25

1

HOWARD A. HENRY

14:03:04 2 remainder of 2003"?

14:03:12 3 A. Right.

14:03:13 4
14:03:14 5 Q. It lists a number of
14:03:17 6 projects that are in process,
14:03:19 7 establishing goals that need to be
14:03:22 8 completed by year's end. Goals is
14:03:24 9 capitalized. Do you know what that is
14:03:24 10 referring to?14:03:28 11 A. These are things that he --
14:03:29 12 that we discussed, that he would like
14:03:33 13 to see if possible completed by the end
14:03:42 14 of the year.14:03:44 15 Q. Okay. The second bullet
14:03:45 16 point there talks about improved
14:03:48 17 attendance. Did you discuss attendance
14:03:50 18 with Mr. Wardrop?

14:03:53 19 A. Briefly.

14:03:56 20 Q. What did he say about
14:03:56 21 attendance?14:04:00 22 A. I don't recall exact, his
14:04:05 23 exact words. I don't recall his exact
14:04:06 24 words.14:04:07 25 Q. Does that appear to be
accurate? This indicates that as of

1

HOWARD A. HENRY

14:04:09 2
14:04:12 3
14:04:14 4
the date of this memo you had 11
absences for the year?

14:04:17 5
14:04:22 6
14:04:25 7
A. I mean it could be true.
I'm not -- I'm not certain.

14:04:27 8
14:04:29 9
14:04:31 10
Q. The memo also lists
reestablishing a formal tracking sheet
for performing and documenting work
performed. Did you discuss that?

14:04:32 11
14:04:33 12
A. I don't remember discussing
that.

14:04:35 13
14:04:37 14
14:04:39 15
14:04:42 16
14:04:43 17
Q. How about continuing to
focus on delivering projects, tasks,
action items, change controls,
commitments, on or ahead of schedule,
do you remember discussing that?

14:04:48 18
14:04:49 19
14:04:56 20
A. I don't remember. I don't
remember discussing it.

14:05:00 21
14:05:02 22
14:05:05 23
14:05:07 24
14:05:09 25
Q. If you'd turn the page it
says at the top there "As discussed,
when preparing the end of the year,
final 2003 goals, quantify and be
specific on accomplishments, i.e.
financial impact, labor saved, costs
reduced, safety upgrades. The goals

1

HOWARD A. HENRY

14:05:13 2
14:05:15 3
14:05:17 4
14:05:21 5
14:05:23 6
14:05:23 7
14:05:26 8
14:05:28 9
14:05:31 10
14:05:33 11
14:05:34 12
14:05:34 13
14:05:35 14
14:05:39 15
14:05:44 16
14:05:45 17
14:05:47 18
14:05:56 19
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14:06:04 22
14:06:09 23
14:06:12 24
14:06:16 25

need to be result-driven, cause and effect summary of work performed and value added to the business." Again it's talking about 2003 goals. What is this?

A. He wanted to mimic what he was being -- what corporate gave him and he wanted us to mimic those results.

Q. He was --

A. Go ahead.

Q. Was he asking you to provide some type of goals for 2003 to him?

A. I don't recall. I don't -- I don't recall.

Q. Do you recall discussing with Mr. Wardrop during this meeting his desire to get some type of self-appraisal or goals for the year from you?

A. I told -- we had a discussion about the self-appraisal, and I gave in a midyear appraisal. He sent me an email saying it was a good

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HOWARD A. HENRY

14:06:19 2 job, you know, I appreciate it, and I
14:06:21 3 put some points in, he added feedback.
14:06:24 4 That was during 2003.

14:06:25 5

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During this time when I started to really, you know, express my desire to be afforded opportunities within the organization he starts -- he starts getting more formalized with this type of document here.

Now, when he would give me a document like this he would read certain things to me, but I wasn't really scrutinizing it as you're scrutinizing it and as we're scrutinizing it now.

I mean during the -- over the course of our relationship we would discuss things formally and informally. Sometimes he would make things poignant, sometimes he wouldn't. But as this document goes, I did not scrutinize it the way you are. I didn't receive a copy or anything like that to look at it later on, so.

1

HOWARD A. HENRY

14:07:24 2

Q. Well can you tell me what you recall from your discussion with Mr. Wardrop with this document?

14:07:28 5

A. I remember him asking me about why I haven't responded to my pages and I said, you know, I don't know, because everybody is having a problem with the paging system. He also asked me about some shot I had in the nurse's office, that I spent some time over there. I said well sometimes I bring work, sometimes I may read an article that deals with something we have an idea on and I may read it. I mean I've taken tens of -- plenty of shots over there in the course of five to seven years and sometimes I would go weekly and sometimes I would go biweekly. I don't remember every incident over there, but I've taken plenty of shots over there. And he -- it was kind of like he was trying to build, you know, in hindsight he was building something on me and I didn't

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HOWARD A. HENRY

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see it at the time. So I looked at

14:08:16 3

this as innocuous. I didn't see

14:08:19 4

anything in it. I didn't scrutinize

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it.

14:08:21 6

And, you know, there were

14:08:23 7

times where goals may not have been

14:08:26 8

met. I would provide for him reasons

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why, whether I need collaboration from

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other people or we need to focus on

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these things in order to get these,

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implement certain things. So with this

14:08:38 13

document I did not scrutinize it, I did

14:08:40 14

not pay total attention to the -- to

14:08:43 15

the, you know, the details of the

14:08:45 16

conversation.

14:08:46 17

Q. Okay. Is there anything

14:08:47 18 else you remember from the conversation

with Mr. Wardrop?

14:08:50 20

A. I definitely remember those

two things, but at this time nothing

else.

14:08:53 23

Q. You don't remember anything

14:08:54 24 else he said to you or that you said to

14:08:57 25 him?

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HOWARD A. HENRY

14:08:58 2 A. At this time, no.

14:09:01 3 Q. Do you remember being asked
14:09:04 4 to sign the document?

14:09:06 5 A. Yes.

14:09:06 6 Q. Did you sign the document?

14:09:11 7 A. I think I did.

14:09:13 8 Q. During this -- strike that.

9 (Henry Exhibit 14 for
10 identification, Bates stamped EEOC 51
11 through 54.)14:09:51 12 Q. I'm giving you a document
14:09:52 13 that's been marked Henry Exhibit 14.
14:10:46 14 Do you recognize this document?

14:10:47 15 A. Yes.

14:10:51 16 Q. Do you remember meeting with
14:10:58 17 Mr. Wardrop regarding this performance
14:11:00 18 appraisal?

14:11:07 19 A. Yes.

14:11:08 20 Q. Do you recall when that
14:11:09 21 occurred?14:11:09 22 A. It occurred with Ms. Joanne
14:11:11 23 Rose I think sometime in February or
14:11:12 24 March of 2004, with this document.

14:11:14 25 Q. When you say this document?

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14:21:21 2

HOWARD A. HENRY

14:21:36 3

Q. Can you tell me in your own words what this Exhibit 16 is, the goals and self-appraisal?

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14:22:04 13

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A. The whole thing is a tracking system that's used to determine whether or not you're achieving goals set forth at the beginning of the year. We use it to determine whether or not we should continue in a certain direction, whether we should concentrate on one particular item and leave another item for a later date.

Q. Don't you think it would be helpful to have this document for a manager in preparing a performance review?

MR. MORELLI: If you can answer. Objection. Can you answer that?

A. I felt that the relationship Walter and -- Walter and I had and what we were corresponding to throughout the year was sufficient. In other words,

1 HOWARD A. HENRY

14:22:37 2 there were two supervisors, not in the
14:22:40 3 area, and I'm not a supervisor, I'm an
14:22:43 4 engineer. So I volunteered without
14:22:46 5 anybody asking me to pay attention to
14:22:49 6 an area that was crucial to the
14:22:51 7 organization. So in order for me to
14:22:54 8 prepare a document like this for Mr.
14:22:56 9 Wardrop would have taken me from that
14:23:01 10 particular duty.

14:23:02 11 So if he really -- I mean
14:23:07 12 when I went to him and explained to him
14:23:09 13 the first time about the performance
14:23:11 14 evaluation, he didn't seem like he
14:23:13 15 needed it.

14:23:14 16 Now he sent out this email
14:23:15 17 and he knew exactly every day we spoke
14:23:17 18 and he knew exactly what I was doing.
14:23:19 19 He would correspond with me in emails.
14:23:21 20 He knew that I was responsible for, you
14:23:23 21 know, having an area taken care of 24
14:23:28 22 hours, 24 hours. So he knew what he
14:23:30 23 was doing.

14:23:31 24 So did he need this in terms
14:23:34 25 of, you know, if he had no idea what I

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HOWARD A. HENRY

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 14:24:05 10
 14:24:06 11
 14:24:08 12
 14:24:09 13
 14:24:14 14
 14:24:15 15
 14:24:18 16
 14:24:18 17
 14:24:19 18
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was doing, yes. But he knew what I was doing. We corresponded by email, we spoke. So it wasn't as critical as he may allude one to believe.

Q. Do you remember any other -- going back to your December meeting with Mr. Wardrop, when you met with him regarding your performance review, do you remember anything else that you two discussed regarding your performance review?

A. Not at this time.

Q. Okay. You mentioned the organizational cascade?

A. Yes.

Q. You discussed that with Mr. Wardrop during this meeting as well?

A. Yes.

Q. And what did --

A. And prior.

Q. What did he tell you about the organizational cascade?

A. He said there's a difference between perception and reality and

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HOWARD A. HENRY

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14:24:51 9
14:25:01 10
14:25:02 11
14:25:03 12
14:25:07 13
14:25:14 14
14:25:17 15
14:25:18 16
14:25:19 17
14:25:23 18
14:25:26 19
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14:25:33 21
14:25:36 22
14:25:38 23
14:25:39 24
14:25:40 25

that, you know, just remember that, just remember that at the first time we spoke about it. Then at the performance evaluation he stated that the reason why you received the job assignment at this -- during the organizational cascade is because of your performance.

Q. Do you remember him telling you anything else?

A. At this time, no.

Q. Did he explain to you how the organizational cascade, how those decisions were made as part of the process?

A. He just basically stated that it affected -- this influenced people's decision on how they viewed me and that's how I got -- that's why I was selected for that particular area. But it influenced people's decision.

Q. What influenced people's decision?

A. The perception that was

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14:25:41 2 HOWARD A. HENRY
14:25:44 3 created by Mr. Wardrop.

14:25:50 4 Q. And what perception is that?
14:25:52 5 A. That I was late, that I

14:25:53 6 don't -- that I'm -- that I'm not a
14:26:00 7 person that would be -- one could
14:26:01 8 consider to rely on.

14:26:02 9 Q. How did he create that
14:26:03 10 perception?

14:26:09 11 A. By making it seem that I was
14:26:11 12 absent from my job assignments. He
14:26:13 13 would ask certain people have they seen
14:26:16 14 me when I distinctly told him that I
14:26:18 15 may not be in the office that day, he
14:26:20 16 would distinctly ask people have they
14:26:22 17 seen me, have they heard from me. He
14:26:24 18 was creating the perception. And I
14:26:26 19 didn't know this until after the fact
14:26:29 20 when my employees -- when my fellow
14:26:31 21 colleagues came to me and said he would
14:26:32 22 do this. He would be on the floor
14:26:35 23 saying have you seen Mr. Henry. And me
14:26:37 24 and him -- as if he were coming to me
14:26:40 25 and telling me oh, do this, oh, that's
fine, no problem. But on the floor he

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14:26:42 2

HOWARD A. HENRY

14:26:44 3

would tell people have you seen Howard, do you know where he is. That's how he was creating this perception. And I didn't know this until afterwards.

14:26:49 5

Q. So you believe he created a

14:26:51 6

perception that you were not available by asking other employees about where you were?

14:26:54 7

A. Exactly.

14:26:56 8

Q. And that this somehow affected the organizational cascade and the selections made as part of the organizational cascade process?

14:26:59 9

A. Yes.

14:26:59 10

Q. You said you viewed the packaging supervisor position as a demotion; is that right?

14:27:00 11

A. Yes.

14:27:03 12

Q. Why do you consider it a demotion?

14:27:12 13

A. Most of the people who hold those positions are packaging operators. The educational level is a high school diploma. I have two

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14:27:48 2 HOWARD A. HENRY
14:27:53 3 degrees. And we interact with each
14:28:00 4 other a lot, you know, and I see what
14:28:03 5 they do. Other engineers from that
14:28:05 6 area told me what they do. So we
14:28:09 7 interact a lot. So we know what the
14:28:15 8 job requires. So I know the capacity
14:28:16 9 one has to have to perform those
14:28:21 10 functions. And the requirement itself
14:28:24 11 tells one that this is a -- this is a
14:28:26 12 position for someone who's possibly
14:28:28 13 getting their foot in the door but not
14:28:30 14 somebody at that time who had seven,
14:28:31 15 eight, nine years of experience that I
14:28:33 16 had, and the track record I had.

14:28:35 17 Q. The position had the same,
14:28:37 18 carried the same salary grade level?

14:28:42 19 A. Yes, for me, yes.

14:28:44 20 Q. So you would not, presumably
14:28:46 21 not, if you had been put in this
14:28:47 22 position you would not have received
14:28:49 23 any change in salary or level, correct?

14:28:50 24 A. No.

14:28:59 25 Q. Did Mr. Wardrop tell you it
was a demotion?

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HOWARD A. HENRY

14:28:59 2

A. Not in those words.

14:29:08 3

Q. Did anyone tell you it was a
demotion?

14:29:10 5

A. Yes.

14:29:10 6

Q. Who told you it was a
demotion?

14:29:12 8

A. Not -- not to use the exact

14:29:15 9

words, but individuals who work at the

14:29:18 10

site know what it means to go from an

14:29:22 11

engineer to a packaging supervisor.

14:29:23 12

They know what it implies, they know

14:29:25 13

what it means. Everyone knows that

14:29:29 14

that means that this person really

14:29:31 15

doesn't know what he's doing, he's

14:29:33 16

incompetent.

14:29:35 17

Q. You were never in fact
placed in that position? You never
assumed those job responsibilities or
that position?

14:29:56 18

A. No.

14:29:57 19

Q. Okay.

Going back to
Exhibit -- I don't have the exhibit
number, but it's the performance
evaluation, Bates number EEOC 0051 in

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14:30:36 2 HOWARD A. HENRY
14:30:37 3 the lower right-hand corner.
14:30:41 4 A. Okay.
14:30:43 5 MR. MORELLI: It's 14.
14:30:59 6 Q. Fourteen, thank you. You
14:31:00 7 didn't sign this document, did you?
A. No.
14:31:00 8 Q. Did you refuse to sign it?
14:31:02 9 A. I wouldn't -- I wouldn't say
14:31:04 10 I refused. I just went for a walk.
14:31:06 11 But I'm not sure if this is the
14:31:08 12 original document.
14:31:09 13 Q. I understand. I understand.
14:31:10 14 A. But I went for a walk. I
14:31:12 15 didn't --
14:31:12 16 Q. Okay.
14:31:13 17 A. He didn't ask me to sign it.
14:31:14 18 Q. So how did this meeting with
14:31:16 19 Mr. Wardrop end?
14:31:18 20 A. I left and I said I have to
14:31:20 21 go for a walk.
14:31:22 22 Q. So what happened next?
14:31:27 23 A. Well, I mean I continued
14:31:36 24 to -- everyone -- everyone was told to
14:31:38 25 stay -- to stay in their job currently,

1 HOWARD A. HENRY

14:31:41 2 that they're currently doing, and I
14:31:43 3 decided that I need to meet with him
14:31:46 4 regarding this decision. I didn't
14:31:47 5 agree with this decision. I didn't
14:31:49 6 agree with being appointed to this
14:31:53 7 area. I didn't agree how I was
14:31:55 8 evaluated. And I felt that I needed to
14:31:59 9 let him know that out of respect
14:32:02 10 because at this point I was saying to
14:32:04 11 myself perhaps we miscommunicated,
14:32:06 12 perhaps we didn't really talk to each
14:32:10 13 other the way we should have and
14:32:11 14 expressed everything we should have.
14:32:13 15 So I said let me just talk to him, and
14:32:16 16 I did. And that was on January 5th.

Q. Who requested that meeting?
Was that you?

A. It wasn't a request. It was
just that, you know, we interacted and
I said Walter, I need to speak to you,
and he said well, I have interviews
throughout the day. I said whenever
you have some time I really would like
to. So there was some time available.

1
2 HOWARD A. HENRY

14:32:37 2 I went to his office and we spoke.

14:32:40 3
14:32:43 4 Q. And what did you tell him?

14:32:48 5 A. I said you -- the reason
14:32:50 6 why -- I said I don't understand this
14:32:54 7 decision, I don't -- I don't really
14:32:57 8 respect the fact that I'm being
14:33:00 9 evaluated the way I was evaluated and I
14:33:02 10 need for you to give me some
14:33:04 11 clarification. He said that, you know,
14:33:06 12 he's not going to give me anything. I
14:33:09 13 said I need to be reconsidered, I need
14:33:12 14 to be reevaluated because I don't think
14:33:14 15 the procedure was fair, I don't believe
14:33:16 16 that I was evaluated fairly.

14:33:19 17 He said -- and I said I have
14:33:21 18 these documents here, you didn't -- you
14:33:23 19 said you didn't need them, you said you
14:33:26 20 didn't want them, but I have them here,
14:33:28 21 and I presented them with the
14:33:32 22 engineering status report, with another
14:33:38 23 document that tracks the goals, with --
14:33:41 24 I think with another document. I can't
14:33:44 25 remember the three that I gave him,
but...

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HOWARD A. HENRY

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14:34:03 11
14:34:05 12
14:34:08 13
14:34:10 14
14:34:12 15
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14:34:33 25

Q. Is that Exhibit 16 or some portion of Exhibit 16?

A. Yes, right.

Q. Okay.

A. And I told him I followed the company values, I did achieve the goals that we discussed. If there was any goal that couldn't be achieved I explained to him what I did in the past. Nothing changed to me from what we had in the past. The relationship I thought we had was if I didn't achieve something I told him why, I told him that it probably is going to take a collaboration, a collaborative effort between technology or QA and other people, they have to be pulled off their projects in order for us to get this done, what would you like for me to do. So I let him know, he said he wasn't going to do anything.

He said at this point he's not going to reevaluate me. He's not going to take my documents. As a

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HOWARD A. HENRY

14:50:59 2 taken an objective approach. She was
14:51:02 3 very subjective in how she conducted
14:51:07 4 the discussion.

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Q. At this point in time you still had not told anyone that you believed that any of these decisions had --

A. No, I think I really didn't want to believe that. I kind of was feeling it but I kind of felt that, you know, if I wasn't going to get opportunity here and that if I wasn't going to get heard fairly that I would have to keep on going up and use whatever means to make sure that I was fairly evaluated and fairly heard.

Q. So what was your next step? What did you do next?

A. I went to Mike McDermott. I met with Mike McDermott the first time.

Q. Okay. Can you tell me about your meetings with Mike McDermott?

A. You know, at first glance it was amicable. He felt -- I felt like

1 HOWARD A. HENRY

14:51:55 2 he was approachable. And I honestly
14:51:57 3 felt that he would do something because
14:51:59 4 he had the power to do something. He
14:52:03 5 explained that he couldn't get
14:52:04 6 everybody's role right but that he
14:52:06 7 would get back to me, he would look at
14:52:08 8 things, he doesn't know all the
14:52:11 9 details, and he would get the details
14:52:13 10 and he would -- he would give me a call
14:52:17 11 back and set up a meeting with him.

14:52:19 12 Q. And did he do that? Did he
14:52:24 13 set up a meeting with you?

14:52:24 14 A. No, I had to call him back.

14:52:26 15 Q. Okay. And did you set up a
14:52:28 16 meeting?

14:52:29 17 A. I think so. I think either
14:52:30 18 he set it up, I don't remember who set
14:52:33 19 it up, but we did meet.

14:52:34 20 Q. And what happened at that
14:52:35 21 meeting?

14:52:35 22 A. He said that, you know, he
14:52:37 23 can't give an executive order to change
14:52:40 24 my evaluation and that my role remains
14:52:42 25 a packaging role, and that, you know --

1

HOWARD A. HENRY

14:52:49 2 and I said, listen, I said, if you're
14:52:54 3 trying to create an atmosphere of
14:52:56 4 diversity, one of the things you would
14:52:58 5 like to do is promote African
14:53:00 6 Americans, especially African American
14:53:03 7 men because none of us are managers,
14:53:05 8 none of us are afforded these
14:53:07 9 opportunities.

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And he went on to say, I'm all for diversity. And I looked at him and he said well as far as, you know, the way you're -- the way you're looking at me, I'm not going to get into that silly discussion with you. And I said to him, you know, it's an important discussion because we're trying to build a family of different people with different opinions to help grow the organization, and I think I can be utilized in that -- in that decisionmaking, I really do, I provide a lot for the company, I've done a lot of great things for the organization, and I think I should be afforded this

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HOWARD A. HENRY

14:53:47 2 opportunity.

14:53:47 3 Q. Was there anything further
14:53:49 4 said about this diversity point, either
14:53:52 5 by you or him?14:53:53 6 A. Not that I can -- not that I
14:53:54 7 can recall.14:53:55 8 Q. Is there anything else you
14:53:57 9 remember from this meeting with Mr.
14:53:58 10 McDermott?14:53:59 11 A. Well, I told him, I said
14:54:01 12 listen, with all due respect, I still
14:54:04 13 must continue until I'm evaluated
14:54:07 14 fairly, until I get a real -- until I
14:54:10 15 get a reason why this is -- this is
14:54:12 16 happening because everyone's reason is
14:54:14 17 changing. No one reasons -- no one --
14:54:17 18 it's not aligned. Everyone has --
14:54:19 19 seems to be thinking that this could be
14:54:21 20 the reason or this other thing could be
14:54:23 21 the reason. So I said I must go above
14:54:26 22 your head.

14:54:26 23 Q. So what did you do next?

14:54:28 24 A. I contacted Mr. Peter
14:54:30 25 Bigelow.

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HOWARD A. HENRY

14:54:30 2

Q. Who's Mr. Bigelow?

14:54:32 3

A. He was the site director, so
Mr. McDermott reported to him.

14:54:41 5

Q. And you set up a meeting
with Mr. Bigelow?

14:54:43 7

A. I believe I did. I'm not
sure whether it was me or his
secretary.

14:54:47 10

Q. Did you know Mr. Bigelow
before this meeting?

14:54:49 12

A. I met him one time during a
tour, but it wasn't a sit-down meeting.
It was a hello, this is Howard Henry,
the engineer, this is Mr. Bigelow.

14:54:58 15

Q. Do you recall when you first
met with him?

14:55:05 18

A. As far as first introduction
or meeting him at --

14:55:09 19

Q. Meeting him --

14:55:12 21

A. Regarding this issue?

14:55:13 22

Q. Regarding this issue,
correct.

14:55:14 24

A. I don't remember the exact

14:55:16 25

date, but I do recall meeting with him,

1

HOWARD A. HENRY

14:55:21 2 and he said that, you know, I really --
14:55:25 3 he said I don't know everything that's
14:55:27 4 going on, I'm going to the FDA, but I
14:55:31 5 will get back to you and I will find
14:55:33 6 out what's going on. I know you don't
14:55:35 7 know me, but I'll look and see what's
14:55:39 8 going on.

14:55:40 9

14:55:41 10

14:55:43 11

14:55:47 12

14:55:50 13

14:55:52 14

14:55:55 15

14:55:57 16

14:55:59 17

14:56:00 18

14:56:02 19

14:56:04 20

14:56:07 21

14:56:09 22

14:56:10 23

14:56:15 24

14:56:15 25

I asked him to read my reviews, I asked him to look into the situation because I have a track record, and based on that track record I feel I wasn't evaluated fairly and I would ask for him to step in and look at the situation from an objective point of view to evaluate me.

Q. Did you tell Mr. Bigelow that you believed that you had been treated unfairly because of your race?

A. Not at that first meeting. It wasn't until the first meeting that I told him that.

Q. Do you know the date of that second meeting?

A. I can't recall the date. I

1

HOWARD A. HENRY

14:56:17 2 would have to -- it had to be sometime
14:56:19 3 January/February of 2004.

14:57:05 4
14:57:06 5 MR. McQUADE: Would you mark
this as Exhibit 18, please.
6

14:57:11 7 (Henry Exhibit 18 for
14:57:11 8 identification, Bates stamped 1438.)

14:57:27 9 Q. Mr. Henry, I've handed you a
14:57:28 10 document marked Exhibit 18. Do you
14:57:30 11 recognize this document?

14:57:31 12 A. Yes.

14:57:34 13 Q. It's an email that you sent
14:57:37 14 to Mr. Bigelow on February 16th, 2004;
14:57:37 15 is that correct?

14:57:38 16 A. Yes.

14:57:42 17 Q. The first sentence says
14:57:43 18 "After stating during our meeting on
14:57:46 19 February 11th, 2004 that Walter
14:57:50 20 Wardrop, Andy Schaschl sell and Michael
14:57:53 21 McDermott engaged in racial
14:57:54 22 discrimination and should be held
14:57:56 23 accountable," etcetera, etcetera. Does
14:57:58 24 this refresh your recollection as to
14:58:01 25 when you met with Mr. Bigelow and told
him that you believed that you had been

1
14:58:03 2 HOWARD A. HENRY
14:58:11 3 discriminated against?

14:58:11 4 A. Yes.

14:58:12 5 Q. Do you believe that meeting
14:58:14 6 occurred on February 11th, 2004?
14:58:15 7 A. Yes.

14:58:16 8 Q. Do you think -- can you tell
14:58:18 9 me is this the first time you told
14:58:20 10 anyone at Wyeth that you had been
14:58:23 11 discriminated or retaliated against?

14:58:24 12 A. This is the first time I'm
14:58:29 13 officially stating it. I think that I
14:58:31 14 started to feel that once certain
14:58:33 15 answers started to come to light and
14:58:41 16 they didn't make sense.

14:58:43 17 Q. Okay. So before this time
14:58:45 18 you hadn't -- you hadn't told anyone
14:58:46 19 else at Wyeth?

14:58:48 20 A. I can't say I didn't. I
14:58:50 21 can -- I can't really say that I
14:58:54 22 didn't. I mean this was -- I didn't --
14:58:56 23 I think I was in denial and I didn't
14:58:58 24 want to believe it, so I --

14:58:59 25 Q. I understand. I'm not
asking you what you believed. I'm

1

HOWARD A. HENRY

14:59:01 2 asking you what you actually told
14:59:03 3 another individual at Wyeth, a manager,
14:59:05 4 a supervisor, an HR person, anyone at
14:59:08 5 Wyeth --

14:59:08 6

A. I think.

14:59:09 7

Q. Was this the first time --

14:59:15 8

A. I think this was the first

14:59:17 9

time.

14:59:17 10

Q. Okay. And what was Mr.

14:59:18 11

Bigelow's response when you told him

14:59:20 12

this?

14:59:20 13

A. He looked at me and he said
wow, I mean, you know, I seriously hope

14:59:22 14

it's not the case, because I -- because
he presented to me a document that

14:59:27 15

supposedly shows certain goals that I
didn't meet and the document was

14:59:30 16

totally -- just did not genuinely
reflect the truth and I told him that.

14:59:32 17

And I said based on this, since each

14:59:35 18

person I went to answers changed I feel

14:59:37 19

and I must state this wholeheartedly,
that I'm being racially discriminated

14:59:46 20

against.

1

HOWARD A. HENRY

15:00:10

Q. Whose answers changed?

15:00:12

A. Each individual I spoke to
had a different reason as to the reason
why I was placed.

15:00:17

Q. You're not saying that the
individual's own individual answers

15:00:20

changed, you're saying that each of the
individual answers were inconsistent?
Does that question make sense?

15:00:22

A. Well, Mr. Wardrop's answer

15:00:26

changed three times. Mr. Schaschl's
answer was different and reasoning was
different from Mr. Wardrop's. Ms.
Joanne Rose's reasoning was different
from that of Mr. Schaschl and Mr.

15:00:29

Wardrop. Mr. McDermott's reasoning and
answer was different from that of Ms.
Joanne Rose, Mr. Schaschl and Mr.

15:00:31

Wardrop.

15:00:35

They were not consistent with
the reason why I was placed in
packaging and why I was rated a three.

15:00:37

Q. What were Mr. Wardrop's

15:00:39

three reasons?

15:00:42

A. The first was the perception

15:00:45

15:00:47

15:00:49

15:00:53

15:00:56

15:00:59

15:01:04

15:01:06

15:01:07

1
15:01:12 2 HOWARD A. HENRY
15:01:15 3 versus reality reason, that there was a
15:01:17 4 perception of me being late. The
15:01:23 5 second is that and I didn't meet
15:01:25 6 certain -- the second was I didn't meet
15:01:27 7 certain goals, he wasn't going to
15:01:29 8 reevaluate me. The third was I was
15:01:31 9 chosen by someone and he tried his best
15:01:34 10 for me not to be chosen. He tried to
15:01:36 11 interact on my behalf and not have me
15:01:38 12 put on a midnight shift.

15:01:39 13 Q. Okay.

15:01:41 14 A. Those were his three
15:01:41 15 changes.

15:01:43 16 Q. Okay. Now those three
15:01:45 17 changes those are explanations for --

15:01:49 18 A. Why I was given a three and
15:01:50 19 why I was placed in packaging.

15:01:56 20 Q. The three explanations
15:01:57 21 explained why you were given a three?

15:01:59 22 A. And why I was placed in
15:02:01 23 packaging.

15:02:03 24 Q. All right. Mr. Schaschl?

15:02:06 25 A. Mr. Schaschl stated that
even if I was given a five I was still

1 HOWARD A. HENRY

15:02:09 2 moving -- I still was being moved or
15:02:10 3 could have been moved to packaging. He
15:02:13 4 said that I don't have supervisory
15:02:14 5 experience, that's why I'm not afforded
15:02:16 6 these managerial experiences --
15:02:19 7 opportunities, okay. So his answer was
15:02:22 8 different from that of Mr. Wardrop.
15:02:24 9 Mr. Wardrop didn't mention anything
15:02:26 10 about supervisory experience and the
15:02:28 11 lack thereof.

15:02:28 12 Q. How about Ms. Rose?

15:02:29 13 A. Ms. Rose said the bar may
15:02:32 14 have been raised, you know, she was
15:02:36 15 there when the people made choices, and
15:02:40 16 she didn't divulge everything that
15:02:42 17 happened.

15:02:42 18 Q. She probably didn't know
15:02:44 19 what happened, why decisions were made,
15:02:45 20 did she?

15:02:46 21 A. I can't say that, sir, with
15:02:48 22 all due respect. That would be
15:02:50 23 speculating, I don't know.

15:02:52 24 Q. Mr. McDermott, what was his
15:02:54 25 reason?

1 HOWARD A. HENRY

15:02:55 2 A. Mr. McDermott said that he's
15:02:57 3 opposed to people staying in the same
15:02:59 4 position for a long period of time. He
15:03:01 5 said that people should have diverse
15:03:04 6 experience. I explained to him that by
15:03:06 7 the time somebody's trained and meet --
15:03:08 8 and get the proper training to be in a
15:03:11 9 certain position you're not sure
15:03:13 10 whether they can actually handle the
15:03:15 11 position. And, you know, by that time
15:03:19 12 a lot of mistakes occur and that's what
15:03:21 13 got us into the position we were in
15:03:23 14 consent -- we got into a lot of
15:03:26 15 compliance issues because individuals
15:03:27 16 who weren't properly trained, who
15:03:30 17 wasn't properly qualified kept on
15:03:32 18 moving in different positions. And he
15:03:34 19 said that was a long time ago. I said
15:03:39 20 that's not a long time ago.

21

(Henry Exhibit 19 for
identification, Bates stamped 1432.)

15:04:04 22 Q. Mr. Henry, I've handed you a
15:04:04 23 document marked Henry Exhibit 19. It's
15:04:11 24 a February 25th, 2004 email from Mr.
15:04:14 25

1

HOWARD A. HENRY

15:04:17 2 Bigelow to Howard Henry. Do you
15:04:23 3 recognize this document?

15:04:24 4 A. Yes.

15:04:24 5 Q. Did you receive this email?

15:04:27 6 A. Yes.

15:04:28 7 Q. It states "I have reviewed
15:04:30 8 the performance appraisal documents
15:04:33 9 from the past years. In general, they
15:04:36 10 seem to be clear and objective." Did
15:04:40 11 you have any further discussion with
15:04:41 12 Mr. Bigelow about this after receiving
15:04:49 13 this email?

15:04:49 14 A. Not that I can recall.

15:04:51 15 Q. Okay. Is there anyone else
15:04:53 16 you met with or discussed your
15:05:02 17 dissatisfaction with the organizational
15:05:06 18 cascade or your 2003 performance review
15:05:09 19 that you haven't already mentioned?

15:05:11 20 A. Not that I can recall at
15:05:15 21 this time.

15:05:15 22 Q. Now did Mr. Bigelow ever
15:05:33 23 follow up with you regarding your
15:05:36 24 allegation about discrimination?

15:05:38 25 A. I think about a month, month

1

HOWARD A. HENRY

15:05:41 2 and a half later.

15:05:42 3 Q. And what happened?

15:05:43 4 A. He said he wanted to conduct
15:05:46 5 an investigation.15:05:52 6 Q. Were you involved in any
15:05:53 7 sort of investigation?

15:05:54 8 A. Yes.

15:05:55 9 Q. How so?

15:05:56 10 A. I was asked by a gentleman
15:05:59 11 by the name of Gene Sackett a series of
15:06:04 12 questions regarding my statement.15:06:14 13 Q. This was a meeting between
15:06:15 14 you and Mr. Sackett?

15:06:19 15 A. Yes.

15:06:20 16 Q. Do you remember when this
15:06:21 17 meeting occurred?15:06:21 18 A. It could have been April of
15:06:28 19 2004, April.15:06:30 20 Q. Was there anyone else
15:06:32 21 present during this meeting?

15:06:33 22 A. Not at that meeting, no.

15:06:35 23 Q. And can you tell me what you
15:06:37 24 remember telling Mr. Sackett at this
15:06:40 25 meeting?

1

HOWARD A. HENRY

15:06:41 2

A. I told him that I felt

15:06:55 3

that -- (telephone interruption) excuse
me, I beg your pardon. My apologies.

15:07:01 5

Q. That's okay.

15:07:01 6

A. Basically we discussed the

15:07:08 7

organizational cascade and I presented

15:07:12 8

him with the documents, my goals and

15:07:15 9

objectives for 2003. We discussed my

15:07:20 10

feelings of why I felt that I was

15:07:28 11

allege -- I was talking about racial

15:07:31 12

discrimination. And I don't recall

15:07:32 13

everything that was said at that kind

15:07:36 14

-- that kind of thing, but that was the

15:07:37 15

general gist of the conversation.

15:07:43 16

Q. What did he tell you, if

15:07:45 17

anything? Do you remember him telling

15:07:46 18

you anything, or did he just ask

15:07:48 19

questions?

15:07:48 20

A. He asked questions. He did

15:07:49 21

tell me that there are packages

15:07:56 22

available, you know. He mentioned

15:07:59 23

something about a package, about

15:08:04 24

something about three months or some

15:08:06 25

kind of salary based on for every

1

HOWARD A. HENRY

15:08:09 2

year's service you get two weeks so in
my case it could be about six months.

15:08:17 4

He mentioned -- he read some
of the reviews, these are good reviews,
he said these are -- these are very,
very good, the past reviews. I didn't
have -- I don't think I had a 2003 at
the time. I think he made copies of
everything and said he would get back
to me.

15:08:22 6

15:08:25 7

15:08:28 8

15:08:31 9

15:08:33 10

15:08:35 11

15:08:36 12

Q. And what happened next?

15:08:44 13

A. That was it. And I didn't

15:08:46 14

hear from him from the date he said he
would get back to me. So I emailed him
and said you said you were going to get
back to me at a certain date, you never
did. And he emailed me back stating
sorry for any confusion that he may

15:08:47 15

have caused, but basically he's still
summing up -- summarizing his findings
and he'll give them over to Mr.

15:08:50 16

Bigelow. And I think at the time it

15:08:52 17

was Donna Grantland and they would
discuss with me my options.

15:08:54 18

15:08:57 19

15:08:59 20

15:09:03 21

15:09:06 22

15:09:09 23

15:09:10 24

15:09:12 25

1

HOWARD A. HENRY

15:09:20 2

Q. When were you advised that

15:09:28 3

you would not have to move into the
packaging supervisor position?

15:09:33 5

A. It had to be April/May of

15:09:37 6

2004 I was -- I was -- I was sent an

15:09:42 7

email -- I sent the email -- after I

15:09:44 8

spent -- after I met with Mr. Bigelow

15:09:48 9

and Ms. Grantland I was given an

15:09:52 10

email -- I responded to an email what

15:09:54 11

was discussed and what was discussed is

15:09:58 12

that there was a vaccines position they

15:10:03 13

was going to give me and that there was

15:10:05 14

the packaging supervisor position that

15:10:07 15

they were going to give me. And at

15:10:09 16

that time I emailed him and said these

15:10:14 17

weren't viable options that I mentioned

15:10:16 18

earlier and there was a project

15:10:18 19

engineer position that was available

15:10:19 20

that was a viable option.

15:10:21 21

THE VIDEO OPERATOR: Mr.

15:10:22 22

McQuade, I need to change the tape.

15:10:24 23

MR. McQUADE: Okay. We'll

15:10:26 24

go off the record.

15:10:27 25

THE VIDEO OPERATOR: Going

1

HOWARD A. HENRY

15:10:27 2

off the record at 3:10. This is the
end of tape number 2.

15:10:55 4

(A recess was taken.)

15:21:27 5

THE VIDEO OPERATOR: Beginning

15:21:45 6

tape number 3 and returning to the record
at 3:21 from 3:10.

8

(Henry Exhibit 20 for
identification, Bates stamped 3996.)

15:21:53 9

Q. Mr. Henry, before the break
you were describing an email that you
had written to Mr. Bigelow. I put in
front of you a document marked Exhibit
20. There's an email here and then
there's a response to that email. If
you look to the email on the lower half
of the page, does this appear to be the
email that you were referring to before
the break?

20

A. Yes.

15:22:30 21

Q. It refers to the senior
validation specialist role. What
position was that? That was the
position within the vaccine
organization?

1

HOWARD A. HENRY

15:22:38 2

A. Yes.

15:22:39 3

Q. Okay.

If you'd look at the top of the page, is this the email you received and were informed that you would in fact remain in the position that you were in and would not change to the packaging supervisor position?

15:22:46 5

A. Yes.

15:22:52 6

Q. In the packaging supervisor

15:22:57 7

position you would be managing people, wouldn't you?

15:23:00 8

A. Operators.

15:23:03 9

Q. But you'd be supervising

15:23:14 11

people?

15:23:17 12

A. I'd -- yes.

15:23:18 13

Q. So it would be an

15:23:22 16

opportunity to get some experience

15:23:24 17

managing people?

15:23:28 19

A. I did that as an engineer

15:23:28 20

though.

15:23:30 21

Q. But this would give you

15:23:31 22

additional experience doing that; is

15:23:33 23

that correct?

15:23:35 24

A. Perhaps.

1 HOWARD A. HENRY

15:23:37 2

Q. Did Mr. McDermott tell you

15:23:47 3

that that would be one of the
advantages in taking this position, is
that it would enable you to get some
management experience?

15:23:54 7

A. He said he started there.

15:23:56 8

Q. He started in the packaging
department himself?

15:23:59 10

A. Right.

11

(Henry Exhibit 21 for
identification, Bates stamped D 00296
and 297.)

15:24:18 13

Q. I'm handing you a document
marked Exhibit 21. Do you recognize
this document?

15:24:42 17

A. No.

15:24:43 18

Q. Had you seen this document
before today?

15:24:47 20

A. I can't recall a hundred
percent.

15:25:00 22

Q. Do you remember discussing
this incident -- this document refers
to an incident in which you couldn't be
found on March 12th, 2004, by Andrew

15:25:03 23

15:25:05 24

15:25:07 25

1

HOWARD A. HENRY

15:25:10 2 Espejo?

15:25:10 3 A. Right.

15:25:11 4 Q. Do you recall discussing
15:25:12 5 this matter with Mr. Espejo?

15:25:13 6 A. Yes.

15:25:14 7 Q. Can you tell me what you
15:25:15 8 recall about that discussion?15:25:16 9 A. I reminded him that on March
15:25:19 10 4th I came to his office and asked him
15:25:21 11 if I can work from four to 12 because I
15:25:23 12 had something to do on Friday. He said
15:25:26 13 no problem. He said only this once, no
15:25:29 14 problem. I said I don't know if I'll
15:25:33 15 need the whole day, I'll get back to
15:25:35 16 you, but he said no problem.15:25:37 17 So that morning I told
15:25:39 18 him -- I think it was Thursday or that
15:25:41 19 morning I told him I said I don't need
15:25:43 20 the whole day, I just need part of the
15:25:45 21 day, but whatever time that I do leave
15:25:48 22 and come back I'll make up the time
15:25:50 23 later on. He said no problem.15:25:52 24 So I didn't -- I never -- he
15:25:55 25 never showed me this document. We

1

HOWARD A. HENRY

15:25:56 2

discussed it and he said it was no problem.

15:26:00 4

So this is something that is not true at all. I didn't go AWOL. I spoke to him. We had a conversation on, I remember it was March 4th he and I, so this is not true.

15:26:18 9

Q. Well it is true, isn't it, that he approached you and discussed this unofficial leave with you?

15:26:25 12

A. It wasn't unofficial because I spoke to him about it.

15:26:28 14

Q. And you're telling me he had cleared it in advance?

15:26:30 16

A. He cleared it, hundred percent, without a shadow of a doubt.

15:26:43 18

Q. Did you tell him that when he discussed this?

15:26:47 20

A. Yes, he said oh, that's right. That's right, he said that's right, that's right, that's right, all right, no problem. That was it.

15:26:52 24

Q. Did you have any other discussions with Mr. Espejo about this?

1 HOWARD A. HENRY

15:26:54 2 A. About this, no.

3 (Henry Exhibit 22 for
4 identification, Bates stamped 1494 and
15:27:05 5 1495.)

15:27:05 6 Q. Handing you a document
15:27:06 7 that's marked Henry Exhibit 22. Can
15:27:37 8 you tell me what this document is?

15:27:38 9 A. It's a midyear review.

15:27:43 10 Q. And who put this midyear
15:27:46 11 review together?

15:27:47 12 A. Andrew Espejo.

15:27:50 13 Q. Did you meet with him?

15:27:52 14 A. Yes.

15:27:52 15 Q. At about July 9th, 2004
15:27:56 16 about this review?

15:27:57 17 A. I think so, yes.

15:27:58 18 Q. What do you recall from that
15:28:02 19 meeting?

15:28:02 20 A. I recall that he was trying
15:28:05 21 to allege and trying to develop an
15:28:10 22 ideology that I was not doing things on
15:28:14 23 time. So he developed what I -- and I
15:28:18 24 explained to him, I said, you know, it
15:28:21 25 seems to me that all of a sudden

1

HOWARD A. HENRY

15:28:22 2
15:28:25 3
15:28:28 4
15:28:31 5
15:28:33 6
15:28:38 7
15:28:41 8
15:28:43 9
15:28:46 10
15:28:47 11
15:28:50 12
15:28:52 13
15:28:54 14
15:28:56 15
15:28:57 16
15:28:59 17
15:29:01 18
15:29:04 19
15:29:06 20
15:29:08 21
15:29:10 22
15:29:13 23
15:29:15 24
15:29:17 25

there's a pattern here that people are accusing me of being late. All of a sudden now. I said, you know, I've been working for this company almost nine, ten years at this juncture and I've never been accused of any of these things, now all of a sudden I want to move up and everybody seems to accuse me, there seems to be a pattern going on. He said no, no, no, no, these are just things that I feel that -- I said I'm not signing this, it does not reflect the truth. So I didn't sign it.

Q. If you look at the first solid bullet point at the top there are two bullet points under that. One of them says "Missed target date of June 25th, 2004, to schedule meeting with maintenance." Is that true?

A. He didn't make himself clear as to exactly what he wanted.

Q. Did you miss the target date of June 25, 2004?

1

HOWARD A. HENRY

15:29:18 2

A. He didn't make himself clear

15:29:20 3

about the target date on any of this,

15:29:22 4

that's why I didn't sign it. He didn't

15:29:24 5

make it clear.

15:29:24 6

Q. But did you miss a date of

15:29:26 7

June 25th, 2004, to schedule the

15:29:28 8

meeting?

15:29:29 9

A. He didn't make it clear this

15:29:30 10

date of June 25th, 2004. That's why I

15:29:33 11

didn't sign it.

15:29:33 12

Q. So it's your position --

A. I can't say I missed the

date because he didn't make it clear of
any date like that.

15:29:40 16

Q. You're telling me you

15:29:44 17

weren't aware of the fact that June
25th, 2004 was --

15:29:45 19

A. I'm telling you that when we

had discussions about these maintenance
plans, he came from a maintenance area,

he wanted me to focus on maintenance

things. I said I don't understand

because as engineers we're not -- we're

not responsible for the actual

15:29:56 25

1 HOWARD A. HENRY

15:29:57 2 maintenance. We contact -- we contact
15:29:59 3 maintenance for them to take care of
15:30:01 4 the equipment. We tell them what's
15:30:03 5 wrong and they take care of it, but
15:30:05 6 we're not responsible for no
15:30:06 7 maintenance plan and no all these
15:30:09 8 plans, that maintenance takes care of
15:30:11 9 all the planning. I told him that.

15:30:17 10
15:30:18 11 And you know, when I got --
15:30:19 12 when I got to this midyear review I
15:30:21 13 explained to him, I said you didn't
15:30:23 14 really make it clear, he said you
15:30:24 15 didn't really ask. I said well I
15:30:27 16 didn't understand and I asked you, hey,
15:30:28 17 you didn't make this clear to me. So
15:30:30 18 that's why I said I can't sign this
15:30:33 19 because this isn't going to reflect
15:30:35 20 exactly how you disseminated the
information.

15:30:38 21 Q. So you had no knowledge,
15:30:40 22 you're telling me you had no knowledge
15:30:41 23 that your supervisor, Mr. Espejo, had
15:30:44 24 asked you to meet certain, this June
15:30:46 25 25th, 2004 target date with respect to

1

HOWARD A. HENRY

15:30:48 2 the maintenance plans, is that what
15:30:50 3 you're telling me?

15:30:50 4 A. All -- I mean this June 25th
15:30:56 5 date, no, no.

15:30:58 6 Q. Never heard of that before?

15:30:59 7 A. I can't say definitively. I
15:31:02 8 mean I don't recall.

15:31:02 9 Q. Did you know -- did you know
15:31:04 10 that you had to -- okay, so you don't
15:31:06 11 recall. You don't recall this June
15:31:08 12 25th, 2004 date?

15:31:09 13 A. No.

15:31:10 14 Q. Okay. A few bullet points
15:31:15 15 down, "SOP review timeline," it says "3
15:31:24 16 SOPs completed on time, 8 SOPs not
15:31:27 17 completed on time." Is that accurate,
15:31:29 18 or was that accurate as of this date?

15:31:31 19 A. No.

15:31:35 20 Q. Why do you not think that
15:31:37 21 was accurate?

15:31:37 22 A. He asked me to come up with
15:31:39 23 an SOP timeline. I explained to him
15:31:42 24 these SOPs the way they're written
15:31:44 25 cannot be conducted the way you'd like

1 HOWARD A. HENRY

15:31:46 2 them to be conducted. He was new to
15:31:48 3 the area and I was trying to explain to
15:31:51 4 him what it takes to make sure these
15:31:54 5 SOPs were accurate and correct. So for
15:31:55 6 him to say completed on time, not
15:31:57 7 completed on time is not necessarily --
15:31:59 8 is not true, it's not a hundred percent
15:32:02 9 true.

15:32:07 10 Q. So you had a difference of
15:32:09 11 opinion on this, I suppose?

15:32:10 12 A. That's right. The whole
15:32:11 13 document we had a difference of
15:32:12 14 opinion.

15:32:12 15 Q. Going down to the bottom,
15:32:14 16 "Areas of improvement," first bullet,
15:32:19 17 "Improvement on follow-up on pending
15:32:21 18 issues. Manage completion of tasks to
15:32:23 19 meet due dates." Did Mr. Espejo
15:32:27 20 discuss that with you?

15:32:28 21 A. I can't recall.

15:32:40 22 Q. How about the final bullet
15:32:42 23 point, "Developing and implementing
15:32:44 24 project timelines," do you remember any
15:32:46 25 discussion about that?

1 HOWARD A. HENRY

15:32:47 2

A. I remember we discussed

15:32:48 3

about Microsoft Project and I said I
would take it, I took the course.

15:32:52 5

Q. Do you remember anything

15:32:53 6

else that you discussed with Mr. Espejo
about this?

15:32:56 8

A. I told him that I couldn't
sign the document because I didn't
agree with it.

15:33:00 11

Q. What was his response?

15:33:02 12

A. Okay.

13

(Henry Exhibit 23 for
identification, Bates stamped D 00170
through 173.)

14

15:33:33 15

Q. I pass you a document that's
been marked Henry Exhibit 23. This
document is a performance appraisal, it
looks like it's covering the time
January 1, 2004 through December 31st,
2004; is that correct?

15:33:33 16

15:33:34 17

15:34:15 18

15:34:18 19

15:34:19 20

15:34:22 21

15:34:25 22

15:34:26 23

15:34:27 24

15:34:31 25

A. Yes.

Q. And this was prepared by
your supervisor, Andrew Espejo; is that
correct?

1

HOWARD A. HENRY

15:34:31 2

A. Yes.

15:34:32 3

Q. Did you meet with Mr.
Espejo --

15:34:35 5

A. Yes.

15:34:35 6

Q. -- in connection with this
15:34:36 7 performance review?

15:34:38 8

Were you provided a copy of
the performance review during that
15:34:40 10 meeting?

15:34:41 11

A. I don't recall.

15:34:42 12

Q. Did you discuss -- did Mr.
Espejo read this performance review to
15:34:46 13 you?

15:34:48 14

A. I think so.

15:34:52 16

Q. Did you have any discussion
15:34:55 17 with him about any of the information
15:34:58 18 provided in this performance review?

15:35:00 19

A. Can you repeat that for me,
15:35:06 20 I'm sorry. I was just focusing on
15:35:09 21 something.

15:35:09 22

Q. Did you have any discussions
15:35:10 23 with him about any of the information
15:35:12 24 provided in this performance review?

15:35:14 25

A. Yes.

1 HOWARD A. HENRY

15:35:15 2 Q. What did you discuss?

15:35:17 3 A. I said that he didn't
15:35:20 4 capture a key element, something that
15:35:23 5 occurred during that year.

15:35:25 6 Q. And what was that?

15:35:26 7 A. The continuous coater single
15:35:31 8 pass project leadership that I provided
15:35:33 9 that year.

15:35:37 10 Q. And what was that?

15:35:38 11 A. They couldn't -- they had a
15:35:42 12 tremendous amount of trouble getting
15:35:46 13 Centrum to -- how shall I say? -- to be
15:35:54 14 coated in a single pass application.

15:35:56 15 They had tremendous amount of trouble.

15:35:59 16 They couldn't get it done for
15:36:00 17 approximately nine or ten months. Our

15:36:04 18 technical service department tried and
15:36:06 19 they had vendors try and no one can do
15:36:09 20 it. And corporate was looking

15:36:12 21 specifically at us because part of the
15:36:16 22 reason why they approved this

15:36:18 23 instrument is to have it perform this
15:36:20 24 particular function, and I was

15:36:23 25 instrumental on making that happen.

1

HOWARD A. HENRY

15:36:28 2

Q. And you felt it should have

15:36:30 3

been reflected or stated in this
review?

15:36:31 5

A. Yes.

15:36:32 6

Q. And it wasn't?

15:36:33 7

A. Not to the level that it

15:36:36 8

needed to be, no.

15:36:38 9

Q. Do you recall Mr. Espejo

15:36:43 10

discussing anything about you needing

15:36:46 11

to improve setting objective dates for

15:36:52 12

commitments and meeting those

15:36:54 13

commitments on a consistent basis?

15:36:57 14

A. Yes.

15:37:00 15

Q. What did he tell you about

15:37:01 16

that?

15:37:01 17

A. He just said that, you know,

15:37:05 18

as far as he's concerned that, you

15:37:08 19

know, I need to firm up certain dates,

15:37:13 20

and I told him, I said when you

15:37:16 21

collaborate with people there are a lot

15:37:18 22

of issues that occur for one not to --

15:37:21 23

to have -- to afford an extension, and

15:37:25 24

he said, you're right, I have

15:37:27 25

extensions myself and, you know, but I

1

HOWARD A. HENRY

15:37:29 2

would like for you -- do your best to firm up certain dates. I said I'll do my best.

15:37:35 5

Q. Did you have any disagreement with this review?

15:37:37 7 A. Yes.

15:37:37 8

Q. What were your disagreements?

15:37:40 10

A. He didn't capture a lot of the things that I did during the course of that year.

15:37:44 13

Q. Anything else you disagreed about?

15:37:48 15

A. I mean I told him that I couldn't sign it because, you know, I just didn't agree.

You know, I felt that the work that I did was critical to the organization and that it

15:37:59 19

warranted a five because if it didn't get done we couldn't coat Centrum at

the rate, at the speed that we were

coating Centrum and probably we would be held, you know, accountable for that as a site. So I was key to making sure

15:38:01 20

15:38:03 21

15:38:09 22

15:38:11 23

15:38:13 24

15:38:15 25

1 HOWARD A. HENRY

15:38:19 2 that that occurred, that it happened.

15:38:21 3 Q. Is there anything else you
15:38:30 4 recall about your conversation with Mr.
15:38:31 5 Espejo in connection with this review?

15:38:34 6 A. Not at this time.

15:38:35 7 Q. Okay.

8 (Henry Exhibit 24 for
9 identification, Bates stamped 3765
10 through 3768.)

15:39:37 11 Q. Mr. Henry, I've handed you a
15:39:39 12 document that's marked Henry Exhibit
15:39:42 13 24. Have you seen this document
15:39:43 14 before?

15:39:43 15 A. Yes.

15:39:46 16 Q. What is it?

15:39:47 17 A. It's some feedback that I
15:39:50 18 got, the performance, 2005 performance
15:39:55 19 feedback.

15:39:58 20 Q. And who provided you this
15:40:02 21 feedback?

15:40:03 22 A. Max Katz.

15:40:04 23 Q. Who was Max Katz, can you
15:40:05 24 tell me again?

15:40:06 25 A. He was the person I reported

1 HOWARD A. HENRY

15:40:07 2 to at the time.

15:40:08 3 Q. So at this point your

15:40:10 4 reporting line had changed, you were no
15:40:12 5 longer reporting to Mr. Espejo, but
15:40:14 6 instead at this time, May 31st, 2005,
15:40:19 7 you're reporting to Mr. Katz?

15:40:20 8 A. Right.

15:40:20 9 Q. How long had you been

15:40:31 10 reporting to Mr. Katz as of this date?

15:40:35 11 A. A full five -- according to
15:40:38 12 this, a full five months.

15:40:40 13 Q. Okay. So that's the January
15:40:42 14 3, 2005 through June 14th, 2005 review
15:40:47 15 period?

15:40:50 16 A. Rights.

15:40:51 17 Q. Did you meet with Mr. Katz
15:41:02 18 in connection with this review?

15:41:03 19 A. Yes.

15:41:04 20 Q. Did he give you a copy of
15:41:06 21 the review at the meeting?

15:41:08 22 A. I don't recall.

15:41:08 23 Q. Did he read the review to
15:41:11 24 you?

15:41:11 25 A. I believe so.

1

HOWARD A. HENRY

15:41:14 2

Q. Did he give you a copy at

15:41:15 3

the end of the meeting?

15:41:16 4

A. I don't recall. He may

15:41:21 5

have. I don't remember.

15:41:22 6

Q. Well I can represent to you

15:41:26 7

that your attorney produced this

15:41:29 8

document to us.

15:41:30 9

A. Right.

15:41:31 10

Q. If that --

15:41:32 11

A. He may not have given it to

15:41:34 12 me at the meeting, he may have given it

15:41:37 13 to me later on. I don't remember the

15:41:39 14 exact way I got it.

15:41:41 15

Q. Okay. This review form

15:41:45 16 appears a little different than the

15:41:47 17 other ones we have reviewed today.

15:41:49 18

A. Yes.

15:41:50 19

Q.

Do you have any idea -- do

15:41:56 20 you know why this performance feedback

15:41:58 21 document is slightly different than the

15:41:59 22 others?

15:41:59 23

A.

I guess they just changed

15:42:01 24 the structure of it.

15:42:02 25

Q.

Okay. What was your general

1

HOWARD A. HENRY

15:42:11 2

impression of this feedback contained
in this performance feedback document?

15:42:15 4

A. It just tried -- it tried to
paint me as a person who didn't do
things in a timely fashion, didn't do
things on time.

15:42:25 8

Q. And you believed that was
not accurate?

15:42:29 10

A. Not a hundred percent.

15:42:31 11

Q. Not a hundred percent. So
you believe it's somewhat accurate?

15:42:34 13

A. I mean I wouldn't say -- I
don't think it was accurate. That's
why I didn't sign it.

15:42:37 14

Q. Well let's go through item
by item.

15:42:42 16

A. Sure.

15:42:43 19

Q. The first item, "Provide the
necessary support to the conversion
cost reduction project to ensure an 8
percent reduction." The "Behind pace
needs improvement" box is checked
there. And there's a comment "Provide
a project timeline for improvement"

1

HOWARD A. HENRY

15:43:08 2

projects to manager by July 29th,

15:43:10 3

2005." Did you do that, did you submit
the project timeline for improvement

15:43:15 4

projects by July 29th, 2005?

15:43:17 5

A. Yes.

15:43:19 6

Q. Okay. Manufacture variances

15:43:29 8

in the left-hand column, the review

15:43:34 9

indicates that you had unacceptable

15:43:36 10

results and that corrective action is

15:43:40 11

required. Do you remember discussing

15:43:45 12

this with Mr. Katz?

15:43:45 13

A. No.

15:43:46 14

Q. A few lines down under the

15:43:56 15

box "Quality mindset," to the far right

15:44:00 16

there's the comment "PMO turnaround as

15:44:04 17

discussed earlier on March 30th, 2005.

15:44:07 18

PMOs from November and December were

15:44:10 19

not signed off on until March." Is

15:44:15 20

that accurate, that the PMOs from

15:44:18 21

November and December were not signed

15:44:20 22

off on until March?

15:44:21 23

A. Right.

15:44:22 24

Q. And would you agree with the
statement that this put the department

15:44:23 25

1

HOWARD A. HENRY

15:44:25 2

at serious compliance risk with
conformance standard 12-4-3-1?

15:44:33 4

A. I didn't understand that
statement a hundred percent at the
time.

15:44:37 7

Q. What did you think it meant
at the time, or now?

15:44:42 9

A. Well he explained to me that
PMOs not being signed off put the
department at compliance risk and I
said well part of the reason why
they're not signed off is because I'm
given them late or they're not given to
me in my box at a certain time, and I
find errors on the documents that need
to be reviewed with the individual who
gave them to me, and sometimes these
people are not available. He said
okay, what we're going to do, we're
going to create a spreadsheet so that
we can track when you get them, who
gives them to you and when they're
signed. I said okay.

15:45:18 25

Because I told him in the

1

HOWARD A. HENRY

15:45:19 2

past this is something that occurs, has occurred in the past and that usually, you know, to help maintenance I wouldn't say anything, but I would review them as quickly as I could so that we could, you know, have the documents back to them.

15:45:35 9

So in essence, I created the spreadsheet and we were able to track it better.

15:45:43 12

Q. A couple of boxes down, "Weekly zone checklists were not submitted in a timely fashion. No follow-up on missing zone checklists, resulting in ERF." What does ERF stand for?

15:45:57 18

A. Error -- error reduction form or error recording form, I think.

15:46:00 19

Q. Is that accurate, that the weekly zone checklists were not being submitted in a timely fashion?

15:46:07 23

A. Right.

15:46:08 24

Q. That is accurate?

15:46:08 25

A. Yes.

1

HOWARD A. HENRY

16:21:29 2

don't know how soon thereafter, maybe
Newton Paul. That's who I can recall
at this point.

16:21:40 5

Q. So what happened at your --
you had a July 6th, 2005 PIP review
meeting, correct?

16:21:59 8

A. I don't know the date.

16:22:00 9

Q. But you did have a meeting,
a review meeting, correct?

16:22:14 11

A. Yes.

16:22:15 12

Q. Who was at that meeting?

16:22:16 13

A. The second one I think it
was just Max Katz and Stacey Marasco
again.

16:22:23 16

Q. Now you say the second, you
mean the first was the delivery of the
document?

16:22:27 19

A. First the delivery and the
second one was a follow-up one.

16:22:28 20

Q. And what was discussed at
the follow-up meeting?

16:22:39 21

A. To the best of my
recollection, we discussed about the
zone checklist, whether I got them to

16:22:40 22

16:22:41 23

16:22:42 24

16:22:48 25

1

HOWARD A. HENRY

16:22:50 2 Andrew in a specific time, I told them
16:22:53 3 yes. Max said he would set up a
16:22:55 4 meeting between maintenance about how
16:22:57 5 to best handle the PMOs because he
16:22:59 6 wanted to stamp them and I told him you
16:23:02 7 can't stamp an official company
16:23:04 8 document like that without the first
16:23:05 9 approval of maintenance. He said he
16:23:07 10 would -- he would make up -- he would
16:23:09 11 make sure he would set up a meeting.

16:23:13 12 And it was a very brief
16:23:14 13 meeting. I expressed again that this
16:23:17 14 PIP was unwarranted.

16:23:20 15 And that was about all I
16:23:24 16 could remember at this time.

16:23:25 17 Q. Did Ms. Marasco tell you
16:23:30 18 that the PIP was not a disciplinary
16:23:36 19 tool, but instead a tool for corrective
16:23:40 20 action?

16:23:42 21 A. She did say that.

16:23:44 22 Q. When was -- and then you had
16:23:51 23 another meeting, correct, regarding the
16:23:54 24 PIP, in this PIP review process?

16:23:57 25 A. Yes.

1 HOWARD A. HENRY

16:23:58 2 Q. And who was at the next
16:23:59 3 meeting?

16:23:59 4 A. I believe that was the final
16:24:01 5 meeting. I could be wrong, but I think
16:24:02 6 that was Andrew Espejo, Max Katz and
16:24:05 7 Stacey Marasco.

16:24:07 8 Q. Okay. And what happened at
16:24:09 9 that meeting?

16:24:10 10 A. Basically they said that
16:24:12 11 they wanted to get my opinion as to
16:24:14 12 what an engineer should do, what's an
16:24:17 13 engineer -- what is -- what is an
16:24:19 14 engineer's role and what do I think an
16:24:21 15 engineer's role should be within the
16:24:25 16 organization.

16:24:30 17 And I asked them, I'm -- you
16:24:33 18 know, I'm confused, I don't know what
16:24:34 19 this has to do with the PIP. And he
16:24:36 20 said, well, basically, I just want to
16:24:40 21 get your understanding as to what you
16:24:43 22 feel an engineer's role should be.

16:24:46 23 And we discussed
16:24:50 24 opportunities, you know, opportunities
16:24:51 25 for engineers and the function of an

1

HOWARD A. HENRY

16:24:53 2

engineer and the role of an engineer, and I discussed with them that, you know, I wished that they would have come to me and told me that these are some of the things they were looking for in their management style and it wouldn't have to resort to something like this.

16:25:15 10

And Max insisted that he tried to come to me, but I told him, I said I don't recall you coming to me in an amicable way, you know, I recall you coming to me in front of colleagues and kind of expressing what you felt and I had to ask you to let's talk in the office about certain things.

16:25:43 18

But there was a situation where I mentioned, you know, I wish these gentlemen would come to me man to man, because they were men, Stacey was offended by it and I apologized for it, I said it wasn't offensive to you, you being a woman, but I apologize if I upset you. And I'll say person to

1

HOWARD A. HENRY

16:26:02 2 person from now on.

16:26:04 3 Q. Were you told at this
16:26:05 4 meeting that you'd satisfied the
16:26:07 5 requirements of the PIP?

16:26:07 6 A. Yes.

16:26:08 7 Q. Were you told that you'd be
16:26:09 8 removed from the PIP?

16:26:10 9 A. Yes.

16:26:10 10 Q. Were you told that -- do you
16:26:21 11 remember being told anything else?

16:26:22 12 A. That I'd have to sustain a
16:26:25 13 certain level of compliance, if you
16:26:28 14 will, certain level of performance or I
16:26:33 15 can be placed back on it, and it can
16:26:36 16 lead to termination.

17

16:27:15 18 (Henry Exhibit 29 for
16:27:15 19 identification, Bates stamped 3727.)

16:27:17 20 Q. Mr. Henry, I've put in front
16:27:19 21 of you a document that's been marked
16:27:25 22 Henry Exhibit 29. It appears to be a
16:27:27 23 letter from Mr. Katz dated July 28th,
16:27:29 24 2005. Do you recall receiving this
letter?

16:27:29 25 A. Yes.

1

HOWARD A. HENRY

16:27:30 2

Q. And this letter notified you

16:27:31 3

that you'd been removed from the PIP?

16:27:33 4

A. Yes.

16:27:34 5

Q. Did you have any further

16:27:44 6

discussions with Mr. Katz, Mr. Espejo

16:27:47 7

or Mr. -- or Ms. Marasco regarding the

16:27:53 8

PIP?

16:27:53 9

A. Not that I can recall.

16:27:54 10

Q. Did you have any discussions

16:27:55 11

with anyone else other than your

16:27:57 12

counsel regarding the PIP?

16:27:59 13

A. I mentioned two individuals

16:28:03 14

before.

16:28:04 15

Q. Right. Other than those

16:28:06 16

individuals?

16:28:06 17

A. Not that I can recall.

16:28:07 18

Q. Okay.

16:28:12 19

A. If you wouldn't mind, may I

16:28:16 20

use the bathroom, is that all right?

16:28:20 21

MR. MCQUADE: Sure, we'll

take a break.

16:28:23 23

THE VIDEO OPERATOR: Going

16:28:23 24

off the record at 4:28.

16:28:25 25

(A recess was taken.)

1 HOWARD A. HENRY

16:39:57 2
16:40:07 3 THE VIDEO OPERATOR: Returning
to the record at 4:40 from 4:28.

4 (Henry Exhibit 30 for
5 identification, Bates stamped D 00584
16:40:15 6 through 586.)

16:40:15 7 Q. Mr. Henry, I put in front of
16:40:16 8 you a document that we have marked
16:40:18 9 Henry Exhibit 30. Is this a document
16:40:26 10 you've seen before?

16:40:28 11 A. Yes.

16:40:28 12 Q. If you'd look at the final
16:40:35 13 page it's signed by a Dr. Henson.

16:40:41 14 A. Yes.

16:40:43 15 Q. And it indicates his type
16:40:46 16 of -- immediately to the right of his
16:40:48 17 signature it indicates his type of
16:40:50 18 practice is internal medicine. Who is
16:40:55 19 Dr. Henson?

16:41:00 20 A. He's a medical doctor that
16:41:03 21 I --

16:41:03 22 Q. What type of doctor is he?

16:41:05 23 A. I guess internal medicine.
16:41:07 24 I thought he did general. I didn't
16:41:09 25 know he specifically did internal

1

HOWARD A. HENRY

16:41:10 2 medicine, so based on this.

16:41:12 3 Q. Is he a general practitioner
16:41:14 4 document?

16:41:15 5 A. Yes, primary care.

16:41:16 6 Q. And why did you see Mr.
16:41:18 7 Henson?16:41:19 8 A. Well, in the past I was
16:41:20 9 complaining of chest pains, stress, and
16:41:30 10 I was going through this at the job and
16:41:34 11 I had to -- I was really getting sick
16:41:37 12 from it, really getting sick from it.

16:41:39 13 Q. How were you getting sick?

16:41:46 14 A. I suffered from depression,
16:41:48 15 insomnia, I didn't have any drive to do
16:41:53 16 anything. I used to like to exercise
16:41:56 17 and workout. I didn't have any desire
16:41:58 18 for that anymore.16:42:00 19 Q. When did these symptoms
16:42:02 20 first appear?16:42:04 21 A. They started to appear for
16:42:08 22 the most part in the early -- around
16:42:13 23 2004, I would say, you know --16:42:19 24 Q. 2004 what symptoms did you
16:42:22 25 have? Were you having trouble sleeping?

1

HOWARD A. HENRY

16:42:24 2

A. That. I had irritable bowel

16:42:27 3

syndrome. I couldn't hold anything
down for awhile at certain points,

16:42:30 4

severe insomnia.

16:42:37 6

Q. During what time period was
this?

16:42:39 8

A. Various times throughout
this whole process.

16:42:44 10

Q. Can you give me dates or at
least approximations?

16:42:48 12

A. I know that -- I know that I
was having heart palpitations and I went
to see him I think in July of 2004. My
heart was in -- it just -- it felt like
it was beating irregularly, it didn't
feel right. I ignored it for awhile.
And I finally went to go see him about
it.

16:43:07 20

Q. Okay. So in July, or shall
we say in 2004 is it fair to say
that --

16:43:20 22

A. That's when things started
to physically take its toll.

16:43:22 24

Q. Were there any other

1

HOWARD A. HENRY

16:43:28 2

physical symptoms that you had?

16:43:37 3

A. Extreme fatigue, I didn't

16:43:42 4

eat much, I didn't really eat that

16:43:46 5

much. I mean, and I really had, like I

16:43:54 6

told you, just nervous, nervous stomach

16:43:58 7

in terms of my bowels and everything.

16:44:00 8

That's about it I could remember at

16:44:03 9

this time.

16:44:03 10

Q. This was in 2004?

16:44:04 11

A. Yes.

16:44:05 12

Q. Did it prevent you from

16:44:07 13

performing any activities you normally --

16:44:11 14

A. I didn't work out, I didn't

16:44:12 15

do things with my wife that we normally
would do.

16:44:23 17

Q. You continued showing up to

16:44:25 18

work?

16:44:26 19

A. Best I could.

16:44:27 20

Q. In 2004?

16:44:28 21

A. Best I could.

16:44:29 22

Q. I think you told me before

16:44:31 23

you were working long hours?

16:44:34 24

A. Yes.

16:44:34 25

Q. Working weekends?

1

HOWARD A. HENRY

16:44:35 2

A. At times.

16:44:37 3

Q. And I think you told me in

16:44:39 4

2004 you believed that you should have
received a five rating?

16:44:46 6

A. In 2004, yes.

16:44:50 7

Q. So these symptoms you were

16:44:53 8

experiencing didn't affect your work
performance in any way, did they?

16:44:57 10

A. It affected, you know, what
I felt was my comfort level and my
ability but I worked through them, I
worked through it.

16:45:02 11

Q. 2005, what type of symptoms
were you experiencing?

16:45:09 12

A. Just real depressed, you
know, I just felt like there was
nothing -- no matter what I did it
wasn't good -- it wouldn't be good
enough. So it just got real, real bad
after that.

16:45:21 16

Q. Anything else in 2005?

16:45:25 17

A. Everything just escalated.

16:45:27 18

Everything just got --

16:45:29 19

Q. When did you -- when was

1

HOWARD A. HENRY

16:45:45 2 your last day at work at Wyeth?

16:45:48 3 A. August 2005.

16:45:53 4 Q. And --

16:45:54 5 A. I believe it was the 5th of
16:45:56 6 August actual physical work.16:45:57 7 Q. At that time you submitted a
16:45:59 8 request for disability benefits?

16:46:03 9 A. Right, for leave.

16:46:10 10 Q. And why did you want to take
16:46:12 11 a leave?16:46:12 12 A. Because things had taken its
16:46:14 13 toll.

16:46:14 14 Q. What had taken its toll?

16:46:16 15 A. What I had been going
16:46:17 16 through at Wyeth.16:46:18 17 Q. And what was the toll? Can
16:46:21 18 you be more specific?16:46:23 19 A. The overall physical
16:46:26 20 condition -- condition I was in. I
16:46:29 21 mean I didn't -- I just was severely
16:46:32 22 depressed. I had irritable bowel
16:46:35 23 syndrome. My heart at sometimes I felt
16:46:37 24 like it was racing, you know,
16:46:40 25 uncontrollably at times. I mean I

1

HOWARD A. HENRY

16:46:44 2

would sit at my desk and my palms would get all sweaty, I would just break out in sweats and chills. I mean there was -- there was a lot of things that started happening to me that didn't happen before.

16:46:58 8

Q. Is there anything else, any other symptoms?

16:47:00 10

A. I had severe anxiety, like it was like I wanted to do everything perfect and I -- and I didn't want to fail at anything, so I got hyper just in terms of just preparing documents and getting this done and trying to do -- being three places at one time and I couldn't keep up with that pace and it took its toll.

16:47:20 19

Q. So you decided to take a disability leave?

16:47:23 21

A. Well, it was recommended by, you know, the individual, the doctor was talking to me and the health care provider was talking to me, I told them what I was going through. I explained

1

HOWARD A. HENRY

16:47:37 2

to them what I was going through. I was seeing a psychotherapist too and based on what I was going through they were like you need to take some time off, see, you know, how -- just to get to a point where you feel you can function the way you want to function. So that was the decision that was made.

16:47:56 10

Q. Who were the medical and care providers that you discussed this with?

16:48:03 13

A. Dr. Elliott Henson and Robert Hickman. He's a psychotherapist.

16:48:14 15

Q. When did you begin seeing Hickman, Dr. Hickman?

16:48:18 17

A. For this particular problem I want to say December-ish 2004, January 2005.

16:48:25 20

Q. How long had you been seeing Dr. Henson?

16:48:28 22

A. For this particular problem?

16:48:30 23

Q. No, in general.

16:48:32 24

A. He'd been my doctor ever since '94, '95 I think.

1

HOWARD A. HENRY

16:48:36 2
16:48:39 3 Q. And had you seen Dr. Hickman
before?

16:48:39 4 A. Yes.

16:48:42 5 Q. Okay. When was that?

16:48:43 6 A. That was in 2000 -- for a

16:48:50 7 different reason, obviously, it wasn't
16:48:52 8 for the same reason. So it was for
16:48:54 9 something different.

16:48:59 10 Q. When was that?

16:48:59 11 A. That was in 2003.

16:49:03 12 Q. Why did you see Dr. Hickman
16:49:05 13 before?

16:49:05 14 A. Marriage counseling.

16:49:08 15 Q. Did you suggest to either of
16:49:13 16 these doctors that you should take a
16:49:15 17 leave of absence?

16:49:17 18 A. I can't say I suggested it.
16:49:18 19 I could say I mentioned to them how I
16:49:20 20 was feeling and based on that the
16:49:23 21 conclusion was drawn that it was time
16:49:25 22 to take some time.

16:49:59 23 Q. If you'd look at Exhibit 30
16:50:00 24 under section 4 it says "State the
16:50:02 25 approximate date the condition

1 HOWARD A. HENRY

16:50:04 2 commenced and the probable duration of
16:50:06 3 the condition and also the problem
16:50:08 4 duration of the patient's present
16:50:11 5 incapacity if different." It indicates
16:50:13 6 that the date it commenced was February
16:50:15 7 18th, 2005, earliest reportable
16:50:21 8 symptoms. This would suggest to me
16:50:26 9 that you told Dr. Henson that symptoms
16:50:28 10 first appeared on February 18th, 2005.

16:50:32 11 A. I didn't -- I didn't tell
16:50:34 12 him that.

16:50:35 13 Q. Do you know how he came to
16:50:37 14 this February 18th, 2005 date?

16:50:40 15 A. No.

16:50:41 16 Q. Do you know whether Dr. Henson
16:50:48 17 is qualified to diagnose a patient with
16:50:50 18 something like anxiety disorder?

16:50:53 19 A. He's a medical doctor, so I
16:50:55 20 would -- I would say that he was
16:50:57 21 qualified.

16:50:58 22 Q. Okay.

23
24 (Henry Exhibit 31 for
16:51:07 25 identification, Bates stamped D 00582
and 583.)